

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1(Sl. No. 13)

O.A. No. 976 of 2023

Ex Sep Indrakant Mishra Applicant
By Legal Practitioner for the Applicant : Shri R Chandra, Advocate
Ms. Supriya Srivastava, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Ashish Kumar Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>09.10.2024</u> <u>Hon’ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon’ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri R Chandra, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld Counsel for the respondents are present. Shri Rajiv Tiwari, Account Officer, PCDA (P) is also present for respondent No. 4.</p> <p>2. Supplementary Counter Affidavit filed on behalf of the respondents is taken on record.</p> <p>3. Heard arguments of Ld. Counsel for both the parties on merit of the case and perused the record.</p> <p>4. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 seeking following reliefs :-</p> <p>(a) <i>The Hon’ble Tribunal may be pleased to set aside order dated 16/06/2023 (Annexure No A-1).</i></p> <p>(b) <i>The Hon’ble Tribunal may be pleased to direct the respondent No 4 to issue a fresh Corrigendum PPO of disability element wef 10/12/2002 to for life in the light of fifth Re-Survey Medical Board along with its arrears and interest thereon at the rate of 18% per annum. Further disability element be rounded to 50%.</i></p> <p>(c) <i>Any other appropriate order or direction which the Hon’ble Tribunal may deem just and proper in the nature and circumstances of the case.</i></p>

5. Applicant was enrolled in the Army on 24.11.1962 and was invalided out of service on 08.07.1966 in Low Medical Category under Rule 13 (3) Item III (ii) (a) (i) of the Army Rules, 1954. Invaliding Medical Board held on 31.05.1966 at Military Hospital Delhi for '**Hansen's Disease Tuberculoid**' considered the disability as attributable to military service and assessed the same @ 40% for two years with effect from 09.07.1966 to 30.05.1968 and disability pension was granted to the applicant vide PPO No D/4016/1967. Thereafter several Re-Survey Medical Boards were carried out and the applicant was granted disability pension for the period from 01.06.1968 to 09.12.2002. After 10.12.2002, disability element of pension was stopped as no Re-Survey Medical Board of the applicant was carried out. As to why it was not carried out, no documents are available either with the applicant or the respondents. As per respondents, the applicant has approached after a long period of 33 years and the applicant being non-pensioner, his complete record with medical documents have been destroyed by burning on expiry of mandatory retention period of 25 years in terms of Para 595 of Regulation for the Army, 1987 (Revised Edition). Therefore, at this belated stage, without copy of the Re-Survey Medical Board proceedings and other connected documents, which is a vital document in the instant case, respondents are not in a position to either agree or disagree to the averments.

6. Ld. Counsel for the Applicant submits that his Re-Survey Medical Board was held at MH Danapur on 07.04.1981 and 02.04.1983 and his disability was considered as attributable and assessed @ 20% Permanent. He annexed the photocopies of both Re-Survey Medical Board Proceedings obtained from respondents through RTI. It means that disability of the applicant was assessed for life and thus there was no need to conduct further Re-Survey Medical Boards. He further submitted that inspite of assessing applicant's disability as permanent (for life) in April 1983, his Re-Survey Medical Boards were again carried out in 1993 and 1997 and he was paid disability pension upto 09.12.2002. After paying disability pension upto 09.12.2002, it was stopped. It was duty of the respondents to hold Re-Survey Medical Board of the applicant to assess his entitlement of disability pension w.e.f 10.12.2002 onwards but it was not done. Thereby the respondents have done injustice to the applicant, firstly there was no need to carry out Re-Survey Medical Board after it was assessed as permanent and secondly if subsequent Re-Survey Medical Boards were carried out then another Re-Survey Medical Board of the applicant should have been carried out to assess degree of disablement to grant disability pension beyond 09.12.2002.

	<p>7. Respondents have provided copies of Re-Survey Medical Boards held on 07.04.1981 and 02.04.1983 at MH Danapur to the applicant through RTI vide PCDA (P) Allahabad letter dated 21.12.2020, then PCDA (P) must be having these documents. In supplementary Counter Affidavit filed today before the court, copies of Re-Survey Medical Boards dated 07.04.1981 and 02.04.1983 have not been annexed which was essential to decide the case.</p> <p>8. Respondent No. 4, the PCDA (P) is directed to file copies of Re-Survey Medical Boards dated 07.04.1981 and 02.04.1983 annexed with the Original Application, and copies of the same were provided by Respondent No. 4 to the applicant through RTI vide letter dated 21.12.2020 in which 'Hansen's Disease Tuberculoid' was assessed @ 20% Permanent, within four weeks to verify its authenticity.</p> <p>9. Accordingly, four weeks further time is granted to the respondents to file the requisite documents, i.e. copies of RSMB dated 07.04.1981 and 02.04.1983 alongwith affidavit.</p> <p>10. List on 29.11.2024 for fining hearing.</p> <p>11. Copy be provided to Ld. Counsel for respondents.</p> <div><div>(Vice Admiral Atul Kumar Jain) Member (A)</div><div>(Justice Anil Kumar) Member (J)</div></div> <p>dds</p>
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