

Court No. 2

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW**

TRANSFERRED APPLICATION No 1144 of 2010

Monday, this the 11th day of April 2016

Hon'ble Mr. Justice D.P. Singh, Member (J)
Hon'ble Air Marshal Anil Chopra, Member (A)

Vikal Singh Tomer, Son of Late Shyam Lal Singh, Resident of
65, Khandari Colony, District Agra.

...Petitioner

Ld. Counsel for the: **Shri Rakesh Johri, Advocate**
Petitioner

Versus

1. Union of India, through Secretary, Ministry of Defence,
New Delhi.
2. The Chief Controller of Defence Accounts Draupadi
Ghat, Allahabad.
3. The Chief of the Naval Staff, Naval Head Quarters
(DPA), New Delhi.
4. Commodore, Bureau of Sailors, Cheetah Camp,
Mankhurd, Bombay-88.

.....Respondents

Ld. Counsel for the : **Shri Amit Jaiswal,**
Respondents **Central Govt Counsel.**

ORDER

1. Heard Ld. Counsel for the parties and perused the records.
2. Being aggrieved with the impugned recovery memo dated 21.12.2006 and denial of service element as well as convening medical board for assessment of disability, the petitioner had preferred Writ Petition No 7947 of 2007 in the High Court of Judicature at Allahabad which has been transferred to this Tribunal in pursuance of provision under Section 34 of the Armed Forces Tribunal Act, 2007 and renumbered as T.A. No. 1144 of 2010.
3. At the very threshold Ld. Counsel for the respondents submitted that the recovery proceedings have been dropped and no recovery shall be made from petitioner's pension and service elements has also been provided to the petitioner.
4. It appears that substantial relief as prayed by the petitioner in the present T.A. has been granted by the respondents.
5. So far as convening of medical board for re-determination of percentage of disability is concerned, it is a question of fact and it can be adjudicated by the appropriate Medical Board in accordance with rules. Accordingly the respondents are directed to reconsider percentage of disability on account of

disease with which the petitioner is suffering by convening Medical Board expeditiously, say, within three months from today.

5. No further question has been raised or argued by Ld. Counsel for the applicant. Ld. Counsel for the respondents has got no objection to convene Medical Board.

6. In view of above, with the consent of Ld. Counsel for the parties the T.A. is disposed of with above directions.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

anb

(Justice D.P. Singh)
Member (J)