

E- Court

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

Original Application No. 740 of 2020

Friday, this the 30th day of July, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

No. 6470684-X, Nk, Rajvir, Son of Chhote Lal, R/O Village-Nagla, Post-Kotla, Tehsil & District-Firozabad, State-Uttar Pradesh-283203.

.... Applicant

Ld. Counsel for the: **Shri Pankaj Kumar Shukla**, Advocate.
Applicant

Versus

1. Union of India, through Secretary Ministry of Defence, (Army) South Block, New Delhi-110010.
2. Chief of the Air Staff, IHQ of MoD (Army) South Block, New Delhi.
3. Adjutant General's Branch IHQ of MoD (Army) Room No. 11, Plot No 108 (West) Brassey Avenue, Church Road, New Delhi-110001.
4. Raksha Suraksha Corps Abhilekh, Defence Security Corps Records, Mill Road, Burnacherry, PO- Kannur, Kerla-670013.
5. PCDA (Pension), Draupadi Ghat, Allahabd.

... Respondents

Ld. Counsel for the: **Ms. Preeti Mala**, Advocate
Respondents. Central Government Counsel

ORDER (Oral)

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-

(a) To issue/pass an order or directions to set aside/quash the Re-Assessment/Review Board Proceedings dated 14.02.2017 carried out at MH Agra.

(b) To issue/pass an order or directions to the respondents to Re-assess the present medical condition of applicant by conducting Re-Survey Medical Board by the higher authorities viz; RR Hospital Delhi, So that applicant's present disablement could be assessed minutely, subsequently if applicant's disability would be assessed in proposed Re-Survey Medical Board, then applicant may be granted for arrear of disability element of disability pension from 29.03.2017 along with @ 12% interest on arrear and afterwards disability pension monthly.

(c) To issue/pass an order or directions to the respondents for grant of benefit of rounding off disability element of disability pension w.e.f. 29.03.2014 to 28.03.2017 @ 50% to 75% along with 12% interest.

(d) To issue/pass an order or directions as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.

(e) To allow this original application with costs.

2. Brief facts of the case giving rise to this application are that applicant was enrolled in Defence Security Corps on 03.04.1997. In the year 2011 the applicant suffered with '**NEW SPUTUM**

SMEAR AND CLUTURE NEGATIVE PULMONARY TUBERCULOSIS' and his medical category was downgraded to lower than 'AYE'. Being placed in low medical category, his Invaliding Medical Board (IMB) was conducted on 26.03.2012 which recommended him to be invalided out from service in medical category 'S1H1A1P5E1' with disablement @ 100% for one year attributable to military service. Accordingly, he was invalided out from service w.e.f. 02.04.2012 and granted disability element vide PPO No. DE/015085/2013. Later, his Re-Survey Medical Board (RSMB) was conducted and he was granted disability element @ 75% (rounded off) for three years i.e. from 29.03.2014 to 28.03.2017. Subsequent RSMB has assessed his disability @ Nil for life and accordingly disability pension was stopped. This O.A. has been filed for conducting fresh RSMB by higher medical authorities.

3. Ld. Counsel for the applicant submitted that applicant was enrolled in the Defence Security Corps in medically and physically fit condition and there was no note in his service documents with regard to suffering from any disease prior to enrolment, therefore any disability suffered by applicant after joining the service should be considered as attributable to or aggravated by military service and he should be entitled to disability pension even after his disability element has been assessed with lower percentage. His further submission is that respondents are required to conduct a fresh RSMB to assess his present medical condition as on one

