

Court No. 1 (E. Court)**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 332 of 2021**Thursday, this the 13th day of January, 2022**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Ram Swaroop (Retd.), Service No. 7236020 Rank – Ex. SWR/RDR, S/o Late Sri Ram Charan R/o Kanja Charakpur, Post – Kunwa Danda, District – Bareilly, State – U.P.

..... **Applicant**

Ld. Counsel for the: **Shri Lal Chandra Sahu**, Advocate.
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence, New Delhi.
2. The Directorate General Medical Services, Army Headquarter, New Delhi.
3. The Officer-in-Charge Record R.V.C. Meerut (U.P.) 900468.
4. Director, P.S.-4, A.G’s Branch, Integrated H.Q. of M.O.D. (Army), D.H.Q. P.O. – New Delhi-110011.
5. P.C.D.A. (Pension), Draupadi Ghat, Allahabad-14.

.....**Respondents**

Ld. Counsel for the : **Shri Arun Kumar Sahu**, Advocate
Respondents. Central Govt. Counsel

ORDER**“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

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

- (a) *The Hon'ble Tribunal may please to set aside the order dated 27.01.2006 passed by respondents on the First Appeal of the applicant Annexure No. 6 to the compilation II.*
- (b) *The Hon'ble Tribunal may please to set aside the order dated 06.11.2017 passed by respondents on the Second Appeal of the applicant Annexure No. 1 to the compilation I.*
- (c) *The Hon'ble Tribunal may please to issue order or direction Commanding respondents to grant disability & elementary pension from the date of discharge (18.10.1977) and disability benefits with rounding off benefits.*
- (d) *This Hon'ble Tribunal may please to issue order or direction which this Hon'ble Court may deem fit and proper under circumstances of the case.*

2. Briefly stated, applicant was enrolled in the Remount Veterinary Corps of Indian Army on 17.09.1968 and was invalided out from service on 17.10.1977 in low medical category "EEE" (Permanent) after rendering 09 years, 01 month and 02 days of service under Rule 13 (3) Item III (iii) of the Army Rules, 1954. As per Original Application, at the time of invalidation from service, the Invaliding Medical Board assessed his disability @100% for life. The applicant's claim for grant of disability pension was rejected by the respondents. The applicant preferred First Appeal and Second Appeal which too were rejected vide letters dated 27.01.2016 and 06.11.2017 respectively. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned counsel for the applicant submitted that applicant was found fit in all respects at the time of enrolment in the army and there was no note in his primary service documents with regard to any disease/disability. Therefore, whatever disease with which applicant suffered during service is attributable to military service. He pleaded that various Benches of Armed Forces Tribunal have granted disability pension in similar cases, as such the applicant be granted disability pension as well as arrears thereof, as applicant is also entitled to disability pension and its rounding off.

4. On the other hand, learned counsel for the respondents submitted that disability pension of the applicant was rejected by the respondents stating that the documents produced by the applicant do not disclose any details about his medical disability and its attributability, where it is due to military service or not. He further submitted that applicant was non pensioner, therefore, his service documents have been destroyed by burning after expiry of retention period, as per para 595 of Regulations for the Army 1987 (Revised Edition). Long Roll in respect of pensioners and non-pensioners are retained for a period of 50 years and 25 years respectively from the date of becoming non-effective. Further submission of learned counsel for the respondents is that since documents relating to applicant have been destroyed on expiry of mandatory retention period of 25 years being a non-pensioner, therefore, degree of disablement cannot be ascertained at this

stage. He pleaded the Original Application to be dismissed being devoid of merit.

5. Heard Ld. Counsel of both sides and perused the records and we find that documents relating to ex army person have been destroyed after mandatory retention period in terms of para 595 of Regulations for the Army, 1987. We could have decided the case, had there been related medical documents pertaining to the applicant and applicant could have been benefitted, but we are unable to impart justice in the absence of requisite medical documents.

6. In view of the above, we are unable to decide the case in vacuum after a prolonged gap of more than 31 years from the date of invaliding out from service. Original Application is devoid of merit and is liable to be dismissed. It is accordingly **dismissed**.

7. Pending misc. applications, if any, are disposed off.

8. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 13 January, 2022

AKD/-