

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 632 of 2022**Thursday, this the 02nd day of February, 2023**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”****“Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”**

No. 692866-N, Ex. WO Vikash Singh, S/o Shri Rang Singh, Resident of Village – Karan Chhapra, Post Office- Karan Chhapra, District – Ballia, (Uttar Pradesh) -277214.

..... Applicant

Ld. Counsel for the Applicant : **Shri Yashpal Singh**, Advocate.

Versus

1. Union of India, through Secretary, Ministry of Defence, south Block, New Delhi.
2. Air Officer Commanding, Directorate of Air Veterans, Air Headquarters, Subroto Park, New Delhi -110010.
3. Officer –in-charge, Air Force Record Office, Subroto Park, New Delhi -10.
4. Joint Controller of Defence Accounts (Air Force), New Delhi.
5. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Praygraj -211014.

.....Respondents

Ld. Counsel for the Respondents. : **Shri Ashish Kumar Singh**, Advocate
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) *Issue/pass an order directing the respondents to consider case of the applicant for grant of disability pension and provide the same expeditiously and within a specified time, from the date of discharge, i.e. with effect from 01.08.2021, including arrears and interest, and also the benefit of rounding off and other consequential benefits of ex-serviceman.*
- (b) *Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.*
- (c) *Allow this Original Application with cost.*

2. Briefly stated, applicant was enrolled in the Indian Air Force on 07.04.1984 and discharged on 31.07.2021 in Low Medical Category on fulfilling the conditions of his enrolment. At the time of discharge from service, the Release Medical Board (RMB) held at 1 Tetra School, Air Force Station High Grounds on 08.05.2021 assessed his disabilities (i) **'CHRONIC KIDNEY DISEASE STAGE 5 ON MHD (IgA NEPHROPATHY) (OLD) (ICD NO.N18.5, Z09.0)'** @ 100% for life as **aggravated by service** (ii) **'PLEUROPULMONARY TUBERCULOSIS ON ATT (FRESH) (ICD No. A 15.6)'** @ 100% for life as **attributable to service, composite disabilities @100% for life**. The applicant's claim for the grant of disability element of disability pension has not been finalised yet. The applicant preferred representation dated 01.04.2022 but of no avail. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded that at the time of enrolment, the applicant was found mentally and physically fit for service in the Air Force and there is no note in the service documents

that he was suffering from any disease at the time of enrolment in Air Force. The diseases of the applicant were contracted during the service, therefore, RMB has declared the disabilities as aggravated by service and attributable to service respectively. He pleaded that various Benches of Armed Forces Tribunal have granted disability pension in similar cases, as such the applicant be granted disability element of disability pension and its rounding off to 100% along with benefit of Constant Attendance Allowance.

4. On the other hand, Ld. Counsel for the respondents contended that although the composite disabilities of the applicant @100% for life have been regarded as either attributable to or aggravated by service, the applicant's the claim for the grant of disability element of disability pension has not been finalised yet. He pleaded for dismissal of the Original Application.

5. Upon hearing submissions of Ld. Counsel for the parties we find that the RMB has assessed the applicant's composite disabilities @100% for life and regarded as aggravated and attributable to service respectively and the applicant's claim for the grant of disability element of disability pension is pending with respondents for finalization.

6. We also observe that applicant was 100% disabled as recommended by the RMB that his composite disabilities are assessed @100% for life. Therefore, the applicant shall also be granted Constant Attendance Allowance (CAA) in addition to disability element of disability pension in accordance with the rules/instructions issued by the

Govt. from time to time. As per para 35(a) of the Amendment to Chapter VI & VII of Guide to Medical Officers (Military Pension) 2002, Govt. of India, Ministry of Defence letter No. 1(2) 2013-D (Pen/Pol) dated 27.04.2015 and PCDA (P) Allahabad Circular No. 543 dated 27.05.2015, applicant is entitled to Constant Attendance Allowance from the next date of his discharge.

7. In view of the above, the **Original Application No. 632 of 2022** deserves to be allowed, hence **allowed**. The applicant is entitled to get disability element @100% for life + Constant Attendance Allowance from the next date of his discharge. The respondents are directed to grant disability element to the applicant @100% for life + Constant Attendance Allowance from the next date of his discharge. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

8. No order as to costs.

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 02 February, 2023

AKD/Ashok/-