

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 87 of 2019**Monday, this the 27<sup>th</sup> day of September, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)****Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Dina Nath, No. 10181114, Ex. NK, S/o Late Shri Munnilal Soni, R/O:  
Village & Post Office: Dhanupur Basar, Tehsil: Handia, District:  
Allahabad (UP).

..... Applicant

Ld. Counsel for the Applicant: **Shri Vijay Kumar Pandey**, Advocate

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, R.K. Puram, New Delhi.
2. Dir D (Pen A & AC), GOI, MOD, New Delhi.
3. OIC Records, Records Kumaon Regiment, Ranikhet (UK).
4. Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad (UP).

..... Respondents

Ld. Counsel for the Respondents: **Shri Chet Narain Singh**,  
Govt. Standing Counsel.**ORDER (Oral)**

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

- (i) That this Hon'ble Tribunal may kindly be pleased to quash the impugned rejection order dated 24.12.1996, 21.08.1984 &

01.01.1994, passed by opposite party no. 2 & 4, contained as annexure no. 1, 2 & 3, to the original application and, direct the opposite parties to pay the disability pension for life to the applicant w.e.f. 30.09.1992, and provide the interest on the aforesaid delayed amount of disability pension with 18% p.a. since due date to actual date of payment.

(ii) That this Hon'ble Tribunal may kindly be pleased to award the cost Rs. 20,000,00/- ( RUPEES TWENTY LAC) for mental and physical harassment and agony and Rs. 20,000/- ( twenty thousand) for financial loss as expenses in filling the instant original application with the interest @18% p.a. in the interest of justice.

(iii) That this Hon'ble Tribunal may be pleased to pass any other order or direction which this Hon'ble Court may deem just and proper be passed in favour of the applicant

2. Briefly stated facts of the case are that applicant was enrolled in the Indian Territorial Army on 25.09.1974 and was invalided out from service on 30.09.1992 in low medical category "**BEE**" (Permanent) in terms of Army Act Rules 14 (a) and 14 (b) (iv) having rendered 05 years and 164 days of service. Prior to invalidment, his Invaliding Medical Board (IMB) was conducted at Military Hospital, Jalandhar on 14.09.1992 which assessed his disability '**TRIDOCYCLITISC COLOBOMA (RT) OLD V-67**' @ 30% for life neither attributable to nor aggravated by military service (NANA). Disability pension claim of applicant was rejected vide order dated 23.05.1994 on the ground of NANA with an advice to prefer first appeal within 6 months if not satisfied with the order of rejection. Thereafter applicant preferred first appeal which was also rejected vide order dated 24.12.1996. After that applicant filed Writ Petition No. 47724/2003 before the

Hon'ble High Court of judicator at Allahabad but the same was dismissed vide order dated 26.03.2014. This O.A. has been filed for grant of disability pension.

3. We have gone through the material placed on record and we find that petition for same cause of action and same relief was dismissed by the Hon'ble Allahabad High Court vide order dated 26.03.2014 and the operative portion reads as under:-

“However, I myself have gone through the pleadings, grounds as also relief sought and find that petitioner is not able to make out a case so as to justify interference of this Court by granting relief as prayed for”

4. We find it surprising that the petitioner has not made any reference in his Original Application to the Writ disposed off by the Hon'ble Allahabad High Court in 2014 and has approached this Tribunal for the same relief and same cause of action.

5. In view of the above, since a petition for same reliefs and same cause of action was dismissed by the Hon'ble High Court Allahabad, this Original Application cannot be adjudicated by this Tribunal and deserves to be **dismissed** being RES JUDICATA.

6. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated : 27<sup>th</sup> September, 2021

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