

**Court No. 1**

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

**Original Application No. 124 of 2020**

Thursday, this the 23<sup>rd</sup> day of September, 2021

**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Raghvendra Singh, Service No. 4592082M, S/o Harikesh Singh,  
Resident of Village- Bohna, Post Office- Sema, Tehsil- Sadar,  
District- Azamgarh, Uttar Pradesh.

**.... Applicant**

Ld. Counsel for the: **Shri Nand Kishore, Advocate.**  
Applicant

Versus

1. Union of India through its Secretary, Ministry of Defence,  
Government of India at New Delhi.
2. The Chief of the Army Staff, Integrated Head Quarters of  
Ministry of Defence (Army), DHQ, New Delhi.
3. Chief Record Officer, The Mahar Regiment Centre, Sagar,  
Madhya Pradesh.

**... Respondents**

Ld. Counsel for the: **Dr. Shailendra Sharma Atal,**  
Respondents. **Central Govt Counsel**

## ORDER

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

1. By means of this Original Application under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has made the following prayers:-

(a) *The Hon’ble Tribunal may kindly be pleased to pass an order to the opposite party No. 3 to release 50% disability pension to the applicant.*

(a-1) *That Hon’ble Tribunal may kindly be pleased to quash the impugned order dated 14.01.2020 passed by opposite party No 3.*

(b) *The Hon’ble Tribunal may kindly be pleased to direct the opposite party NO 3 to release Ex Army Quota in favour of the applicant.*

(c) *The Hon’ble Tribunal may kindly be pleased to direct the opposite parties to decide the representation dated 28.11.2019 consider the claim of applicant in respect to the pension and pass appropriate order accordingly.*

(d) *Hon’ble Tribunal may kindly be pleased to direct the opposite parties to pass appropriate order or direction which thiws Hon’ble Tribunal may deem just and proper in the facts and circumstances of the case.*

2. In brief the facts necessary for the purpose of the instant Original Application are that the applicant was recruited in the Indian Army on 10.04.2018. During training the applicant sustained injury ‘**STRESS FRACTURE DISTAL TIBIA (LT)**’ and was admitted in Military Hospital, subsequently he was relegated

from training and placed in low medical category. He was upgraded to medical category SHAPE-1 on 25.07.2019 and was declared fit for training. It is alleged that applicant was pressurized to give application for premature discharge from service on compassionate ground and after giving the application for premature discharge, he was discharged from service wef 28.09.2019 under Army Rule 13 (3) III (iv). He preferred his claim for grant of disability pension which was rejected vide letter dated 14.01.2020. Being aggrieved, the applicant has approached this Tribunal for the grant of disability pension.

3. Learned counsel for the applicant submitted that on 22.10.2018 during the physical Training the applicant was injured. He was admitted in military hospital and diagnosed '**STRESS FRACTURE DISTAL TIBIA (LT)**' and the applicant was placed in temporary low medical category. His medical category was upgraded to SHAPE-1, and applicant was declared fit for training. However, he was still feeling severe pain in his left leg and was not able to participate in training. He was pressurized to submit application for premature discharge and on submitting application, he was discharged from service. Learned counsel for the applicant submitted that in medical board proceeding dated 22.10.2018 applicant was declared low medical category for the injury '**STRESS FRACTURE DISTAL TIBIA (LT)**'. Battalion Commander of Mahar Regiment has mentioned in his report that injury sustained by the individual is attributable to military service

in peace area and no one is to be blamed for the same. Medical Board in his report dated 22.01.2019 has also considered the disability of the applicant as attributable to military service. Learned counsel for the applicant submitted that applicant is a young boy and he suffered injury during training which is bonafide military duty. His life has been spoiled due to military service. Though he was declared fit for training but he is not fit to attend tough military training. His father has served in the army for more than 30 years and he was honoured with gallantry award. Learned counsel for the applicant prayed that keeping in view the facts stated above, disability pension may be granted to the applicant for his livelihood. He pleaded that various Benches of the Armed Forces Tribunal have granted disability pension in similar cases, as such, the applicant be granted disability pension and its rounding off to 50%.

4. Per contra, learned counsel for the respondents submitted that applicant sustained injury during physical training and was placed in low medical category. After two months his medical category was upgraded to SHAPE-1 and he was declared fit for training. His case was considered sympathically keeping in view his family back ground. Commanding Officer considered the disability of the applicant as attributable to military service. He was not pressurized to submit application for premature discharge but he was counseled to complete his training. The applicant was not willing to undergo training, hence he gave application for

premature discharge at his own desire. His application for premature discharge was considered and applicant was discharged from service. As such, it clearly shows that applicant was not interested in army service. The applicant was neither invalided out from service nor discharged on medical grounds. At the time of discharge, he was Medical Category SHAPE-1. He submitted that applicant is not entitled disability pension since he was discharged on his own request and in medical category SHAPE-1. He pleaded that this Original Application is devoid and bereft of merit and is liable to be dismissed.

5. We have heard learned counsel for the parties and perused the record.

6. We find that applicant sustained injury during physical training on 22.10.2018 and was placed in low medical category. The applicant was placed in medical category SHAPE-1 on 25.07.2019 and was declared fit for military training. Applicant himself was not willing to undergo military training and submitted application for premature discharge. Since medical category of the applicant was upgraded to SHAPE-1 at the time of discharge and he himself requested for discharge, hence applicant is not entitled for disability pension.

7. In view of the above, the Original Application is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

8. No order as to costs.

9. Pending applications, if any, are disposed of accordingly.

(Vice Admiral Abhay Raghunath Karve)  
**Member (A)**

(Justice Umesh Chandra Srivastava)  
**Member (J)**

Dated : 23<sup>th</sup> September, 2021  
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