

**Court No.1****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 39 of 2016**

Wednesday, this the 05<sup>th</sup> day of Jul, 2017

**Hon'ble Mr. Justice D.P. Singh, Member (J)**

**Hon'ble Air Marshal Anil Chopra, Member (A)**

No. 16309232, Ex – Naik Talab Husain 594 Chha/369,  
Bhagwant Nagar, Nayi Basti,  
Neelmatha - Lucknow (Uttar Pradesh).---

**Applicant**

Ld. Counsel for the : Shri P.N. Chaturvedi, Advocate  
Applicant

Vs

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Chief of the Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, New Delhi – 110011.
3. The Officer – in – Charge, Records, Parachute Regiment - Bangalore.
4. Commanding Officer 3<sup>rd</sup> Battalion, the Parachute Regiment c/o 56 APO.
5. Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad.

...Respondents

Ld. Counsel for the : Shri Amit Jaiswal, Advocate  
Respondents. Sr. Central Govt Standing Counsel.

Assisted by : Maj Salen Xaxa, OIC Legal Cell.

**ORDER (Oral)**

1. This is a petition under Section 14 of the Armed Forces Tribunal Act, 2007 preferred by the applicant being aggrieved by denial of disability pension.
2. We have heard Ld. Counsel for the applicant Shri P.N. Chaturvedi and learned counsel for the respondents Shri Amit Jaiswal and perused the record.
3. Admittedly, brief facts of the case are that the applicant was enrolled in the Parachute Regiment on 27.11.1972. After completion of his basic military training, he was posted to 07<sup>th</sup> Battalion. Later on he was discharged on account of low medical category on 30.11.1992 while holding the rank of Naik though according to the applicant's counsel he was liable to be discharged on 30.11.1994 in terms of Para - 164 of Regulations for the Army, 1987. Applicant was discharged in medical category 'CEE' (permanent) with 20% disability for 5 years on account of his suffering from SYNOVITIS KNEE (RT) by Release Medical Board. First Re-Survey Medical Board was held in the year 1997. He was again held to be disable to the extent of 20% for a period of 5 years and paid disability pension as follow up action. However, medical advisory board PCDA assessed the disability less than 20%. Accordingly, disability pension was stopped/discontinued w.e.f. 01.07.1997. Another Medical Board was held on 03.01.2002 with the opinion that applicant's disability is 15 to 19% for life. Accordingly,

payment of disability pension remained discontinued to the applicant.

5. The controversy with regard to payment of disability pension is no more res-integra in view of law laid down by Hon'ble Supreme Court, vide ***Dharamvir Singh vs. Union of India and others*** (2013) 7 SCC 316 .

6. In view of above, O.A. deserves to be allowed. Applicant seems to be entitled for payment of disability pension. Accordingly, it is held that the applicant shall be entitled for disability pension to the tune of 15 to 19% for life, which is rounded off to 50% w.e.f. 01.07.1997. The disability pension shall be paid to the applicant alongwith all consequential benefits as early as possible, say within four months from today. In case it is not paid, the applicant shall also be entitled to the interest @ of 9% per annum from 01.07.1997.

7. O.A. is allowed accordingly.

No order as to costs.

**(Air Marshal Anil Chopra)**  
**Member (A)**

**(Justice D.P. Singh)**  
**Member (J)**

**Dated: July 5,2017**

JPT



