

**Court No. 1**

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

**ORIGINAL APPLICATION No. 1248 of 2023**

Monday, this the 03<sup>rd</sup> day of February, 2025

**“Hon’ble Mr. Justice Anil Kumar, Member (J)**  
**Hon’ble Maj. Gen. Sanjay Singh, Member (A)”**

No. 4198964M, Ex. Sep. Vijay Singh, S/o Shri Hukum Singh, R/o – Vill & Post – Damras, Tehsil- Kalpi, District – Jalaun (U.P) Pin-285130.

**..... Applicant**

Ld. Counsel for the : **Shri Rohitash Kumar Sharma**, Advocate  
 Applicant

Versus

1. Union of India through the Secretary, Ministry of Defence, DHQ PO, New Delhi.
2. The Chief of the Army Staff, Integrated HQ of Ministry of Defence (Army), DHQ PO, New Delhi -110011.
3. Additional Director General Personnel Services (PS-4), Integrated HQ Ministry of Defence (Army), DHQ PO, New Delhi -110011.
4. Records Kumaon Regimental Centre, Ranikhet Uttarakhand, Pin-263645, C/o 56 APO.
5. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad -211014.

**.....Respondents**

Ld. Counsel for the : **Shri Rajeev Narayan Pandey**, Advocate  
 Respondents. Central Govt. Standing Counsel

## **ORDER**

**“Per Hon’ble Mr. Justice Anil Kumar, 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) *Call for the records including the IMB proceedings dated 06.01.2005, as well as the findings and opinion as approved by the competent authority based on which the Respondents in most illegal manner rejected the claim of the Applicant in respect of his disability "Bipolar Affective Disorder Current Episode Mania without Psychotic Symptoms" and, thereafter quash as such orders dated 13.05.2006, 18.06.2007, 29.01.2009 and 29.01.2022.*
- (b) *Direct the Respondents to process the claim of the Applicant in respect of his disability "Bipolar Affective Disorder Current Episode Mania without Psychotic Symptoms" along with arrears with an interest @18% as expeditiously as possible.*
- (c) *Further, direct the Respondents to extend the benefit broad banding in respect of Applicant's disability assessed by IMP to 50% along with the arrears of the disability pension with interest @12% pa to be compounded quarterly with exemplary cost from the date of retirement till date of payment.*
- (d) *Issue such other order/direction as may be deemed appropriate in the facts and circumstances of the case.*

2. Briefly stated facts of the case are that applicant was enrolled in the Indian Army on 28.12.2002 and was invalided out from service on 13.02.2005 (AN) in Low Medical Category under Rule 13 (3) Item III (iii) of the Army Rules, 1954. Before invalidation from service, the Invaliding Medical Board (IMB) held at Military Hospital, Bareilly on 06.01.2005 assessed his disability '**BIPOLAR AFFECTIVE DISORDER CURRENT EPISODE MANIA WITHOUT PSYCHOTIC SYMPTOMS (F-31-1)**' @60% for ten years and opined the disability to be neither attributable to nor aggravated (NANA) by service. The applicant's claim for grant of disability pension was rejected vide letter dated 03.03.2006 which was communicated to the applicant vide letter dated 13.05.2006. The applicant preferred First Appeal which too was rejected vide letter dated 11.06.2007 which was communicated to the applicant vide letter dated 18.06.2007. The applicant preferred Second Appeal which too was rejected vide letter dated 29.01.2009. The applicant preferred Mercy Petition in August, 2016 which too was rejected vide letter dated 19.08.2016. the applicant again preferred application dated 15.12.2021 for the grant of disability pension which too was rejected vide

letter dated 29.01.2022. It is in this perspective that the applicant has preferred the present Original Application.

3. Ld. Counsel for the applicant pleaded that the applicant was enrolled in the Army in medically and physically fit condition. It was further pleaded that an individual is to be presumed in sound physical and mental condition upon entering service if there is no note or record to the contrary at the time of entry. In the event of his subsequently being invalided out from service on medical grounds, any deterioration in his health is to be presumed due to service conditions. The Ld. Counsel for the applicant, on account of aforesaid, pleaded for disability pension to be granted to the applicant.

4. On the other hand, Ld. Counsel for the respondents submitted that since the Invaliding Medical Board has opined the disability as NANA, the applicant is not entitled to disability pension. He further accentuated that the applicant is not entitled to disability pension in terms of Regulation 173 of Pension Regulations for the Army, 1961 (Part-I), which stipulates *that, "Unless otherwise specifically provided a disability pension consisting of service element and disability element may be granted to an individual who is invalided out of service on account of*

*a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20 per cent or over. The question whether a disability is attributable to or aggravated by military service shall be determined under the rule in Appendix II."* Accordingly, the applicant was informed about the rejection/non-entitlement of disability pension. He pleaded that in the facts and circumstances, as stated above, Original Application deserves to be dismissed.

5. We have heard Ld. Counsel for the parties and perused the material placed on record.

6. On careful perusal of the documents, it has been observed that the applicant was enrolled on 28.12.2002, and the disease applicant was found to be suffering with in medical test first started on 09.09.2004, i.e. within two years of joining the service.

7. In the above scenario, we are of the opinion that since the disease has started in less than two years of his enrolment, hence by no stretch of imagination, it can be concluded that it has been caused by stress and strains of military service. Additionally, it is well known that mental disorders can escape detection at the time of enrolment, hence benefit of doubt cannot be given to the applicant

merely on the ground that the disease could not be detected at the time of enrolment. Since there is no causal connection between the disease and military service, we are in agreement with the opinion of the IMB that the disease is NANA. In view of the foregoing and the fact that the disease manifested in less than two years of enrolment, we are in agreement with the opinion of Invaliding Medical Board that the disease is NANA.

8. Apart from above, in similar factual background this Tribunal had dismissed the claim for disability pension in T.A. No. 1462/2010 vide order dated 23.05.2011, wherein the applicant was enrolled on 21.01.2000 and was discharged on 27.04.2000, as he was suffering from Schizophrenia. Said disability was assessed @80% for two years and it was opined by the Medical Board to be neither attributable to nor aggravated by military service. The said order has been upheld by the Hon'ble Apex Court in Civil Appeal arising out of Dy. No. 30684/2017, ***Bhartendu Kumar Dwivedi Versus Union of India and Others***, decided on November 20, 2017, by dismissing Civil Appeal on delay as well as on merits.

9. Additionally, in Civil Appeal No 7672 of 2019 in ***Ex Cfn Narsingh Yadav vs Union of India &Ors***, decided

on 03.10.2019, it has again been held by the Hon'ble Supreme Court that mental disorders cannot be detected at the time of recruitment and their subsequent manifestation (in this case after about three years of service) does not entitle a person for disability pension unless there are very valid reasons and strong medical evidence to dispute the opinion of Medical Board. Relevant part of the aforesaid judgment as given in para 20 and 21 are as below :-

*"20. In the present case, clause 14 (d), as amended in the year 1996 and reproduced above, would be applicable as entitlement to disability pension shall not be considered unless it is clearly established that the cause of such disease was adversely affected due to factors related to conditions of military service. Though, the provision of grant of disability pension is a beneficial provision but, mental disorder at the time of recruitment cannot normally be detected when a person behaves normally. Since there is a possibility of non-detection of mental disorder, therefore, it cannot be said that 'Paranoid Schizophrenia (F 20.0)' is presumed to be attributed to or aggravated by military service.*

*21. Though, the opinion of the Medical Board is subject to judicial review but*

*the courts are not possessed of expertise to dispute such report unless there is strong medical evidence on record to dispute the opinion of the Medical Board which may warrant the constitution of the Review Medical Board. The Invaliding Medical Board has categorically held that the appellant is not fit for further service and there is no material on record to doubt the correctness of the Report of the Invaliding Medical Board."*

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

11. No order as to costs.

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

**(Maj. Gen. Sanjay Singh)**  
**Member (A)**

**(Justice Anil Kumar)**  
**Member (J)**

Dated : 03 February, 2025

Ashok/AKD/-