

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 362 of 2020****Tuesday, this the 6<sup>th</sup> day of July, 2021****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Ex JC-805516N Nb Sub Sanjeev Kumar Gupta, S/O Gauri Shankar, House No. 22, Rajeev Vihar, Naubasta, Kanpur (UP)-208021.

..... Applicant

Ld. Counsel for the: **Wg Cdr SN Dwivedi (Retd), Advocate**  
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi.
2. Chief of the Army Staff, Integrated Headquarters of Ministry of Defence, South Block, New Delhi-110001.
3. Officer-in-Charge AEC Records, AEC Trg College and Centre, Pachmarhi, MP-461881.

..... Respondents

Ld. Counsel for the : **Shri Yogesh Kesarwani, Advocate**  
Respondents Central Govt Counsel.

**ORDER (Oral)**

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

(i) Issue/pass an order or direction of appropriate nature to the respondents to arrange for/assemble a Review/Resurvey Medical Board to re-categorize the applicant in the present circumstances and prevailing medical conditions and to assess percentage of disability for grant of commensurate disability element of pension.

(ii) To issue/pass any order or direction to the respondents to decide the disability of the applicant at a minimum of 30%, the disability pension to be founded off from 30% to 50% as per the existing orders on the subject passed by the office of the PCDA (P), Allahabad vide their circular No 290 dated 01.11.2001 and specific direction of the apex court passed in various cases to this effect.

(iii) To issue/pass an order or direction to the respondents to release the disability pension w.e.f. 01.07.2019; that is the day after the date of release of the applicant from the Army.

(iv) To issue/pass any other order or direction that this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case.

(v) To allow this Original Application with costs.

2. Brief facts of the case are that the applicant was enrolled in the army on 22.03.2003. In the year 2013-2014 while posted in Assam he developed pain in lower back which was managed by medication. On persistence of aforesaid pain, MRI scan was done on 08.08.2018 and applicant was diagnosed to be suffering from '**Lumber Spondylosis with Disc Desiccation Changes L2-L3**'. Due to personal and domestic problem, applicant got premature discharge on extreme compassionate grounds w.e.f. 30.06.2019 and as per AFMSF-18 he was in SHAPE-I at the

time of retirement. On 19.05.2020 applicant approached AEC Training College and Centre, Pachmarhi to arrange his RMB/RSMB to assess his medical condition to establish his medical category but as per applicant no action was taken. Vide this O.A. applicant has prayed for RMB/RSMB in terms of Rule 10 of Entitlement Rules for Casualty Pensionary Awards, 1982 (Chapter-V).

3. Submission of learned counsel for the applicant is that while in service applicant was suffering from back pain which was diagnosed as disability '**Lumber Spondylosis with Disc Desiccation Changes L2-L3**' as per MRI scan dated 08.08.2018 but at the time of discharge from service no Release Medical Board (RMB) was conducted which could assess his disability. Further submission of learned counsel for the applicant is that the aforesaid disability has taken place while applicant was posted in field area from 2011-2014. During course of hearing, learned counsel for the applicant confined his prayer for conduct of RMB on applicant.

4. On the other hand, learned counsel for the respondents, while filing counter affidavit in para 7 to 9, has conceded that applicant is required to undergo Review/Resurvey Medical Board for re-categorization.

5. We have heard learned counsel for the parties and perused the material placed on record. We have also gone through Rule 10 of Entitlement Rules for Casualty Pensionary Awards, 1982 (Chapter-V) which entitles RMB/RSMB on an incumbent who was suffering from '**Spondylosis**' while in service and the disease/disability manifested within 10 years of retirement/discharge from service.

6. In view of the above, with the consent of learned counsel for the

parties, we direct the respondents to conduct RMB on applicant within a period of three months from today.

7. With the aforesaid observations, we dispose off the O.A. finally.
8. No order as to costs.
9. Pending applications, if any, are disposed off.

**(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)**  
**Member (A) Member (J)**

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