

**RESERVED**  
**COURT NO.1**

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

**ORIGINAL APPLICATION No.187 of 2019**

**Tuesday, this the 26<sup>th</sup> day of March, 2019**

**Hon'ble Mr. Justice S.V.S.Rathore, Member (J)**

**Hon'ble Hon'ble Air Marshal B.B.P. Sinha, Member (A)**

No.14617868K Ex Hav Raut Dharampal Nilkanthrao,  
S/o Shri Nilkant Raut,  
C/o Ex Sub Maj Rout Tarkeshwar Nath, Raja Rahul City,  
Malak Road, Nilmatha, Lucknow 226002.

.....Applicant

Ld. Counsel for :  
the Applicant

**Shri R Chandra,**  
**Advocate**

Versus

1. Union of India through the Secretary,  
Ministry of Defence, Government of India,  
New Delhi -11.
2. Chief of Army Staff, Integrated Headquarter of the Ministry of  
Defence (Army), DHQ, Post Office New Delhi-11.
3. The Officer In-charge EME Records PIN 900453, C/o 56 APO.
4. The Chief Controller Defence, Accounts, Draupadi Ghat,  
Allahabad 14 (U.P.)

.....Respondents

Ld. Counsel for the :  
Respondents

**Shri Adesh Kumar Gupta,**  
**Ld. Counsel for the Respondents.**

**ORDER**

**Delivered by Hon'ble Mr.Justice SVS Rathore, (Member-J.)**

1. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant for grant of disability pension. The applicant has made the following prayers:

*“(I) Hon’ble Tribunal may be pleased to set aside the impugned order dated 21.03.2016 (Annexure No.A-1).*

*(II) Hon’ble Tribunal may be pleased to direct the respondents to grant disability pension with effect from 01.07.2016 with the interest at the rate of 18% per annum.*

*(III) Hon’ble Tribunal may be pleased further to grant benefit of rounding of disability pension @75 percent in terms of Ram Avtar’s case.*

*(IV) Any other appropriate order or direction which the Hon’ble Tribunal may deem just and proper in the nature and circumstances of the case.”*

2. The undisputed facts, as averred by the learned counsel for both the parties are that the applicant was enrolled in the Army in EME Corps on 24.06.1992 and was discharge from service on 30.06.2016 in medical category P3 for disability **ISCHEMIC STROKE (LT MCA) TERRITORY** after rendering more than 24 years of service. At the time of discharge, the applicant was not provided with the copy of proceedings of Release Medical Board. The applicant’s disability was assessed as 60% for life, but the disability of the applicant was accepted as neither Attributable to nor Aggravated by Military service. On 21.03.2016 respondent no.3 intimated the applicant that after due consultation with the medical authority, it has been decided by the competent authority that he is not entitled to disability pension in terms of Regulation 179 of Pension Regulation for the Army 1961, Part-I, since the disability as recorded in the RMB proceedings, has been found as NANA. It was advised to the applicant to prefer an appeal before the Appellate Committee on First Appeal (ACFA) within six months from the date of receipt of this letter.

3. The applicant visited the office of the respondent no.3 on 22.05.2017 for obtaining PPO, Disability pension rejection letter and RMB. It is further

submitted that the respondent no.3 provided photocopy of PPO, rejection letter of disability pension and RMB. The applicant submitted First Appeal before the respondent no.3 on 22.05.2017. The applicant gave a reminder to the respondent no.3 on 16.05.2018 and served a notice on 02.07.2018 for decision of the pending First Appeal. On 25.08.2018 the respondent no.3 informed the applicant to furnish certain documents for disposal of his pending First Appeal viz (i) Ist Appeal against rejection of disability pension, (ii) Undertaking certificate (c) Delay report with full justification. The submission of the applicant is that First Appeal filed on 22.05.2017, has been returned to the applicant on 02.06.2017 for the requirements of the aforesaid documents.

4. Learned counsel for the applicant submitted that since the applicant was enrolled in medically fit condition thereafter he has been discharged from service in Low Medical Category and his First Appeal has not yet been decided, therefore, he is entitled to disability pension. However, learned counsel for the applicant submits that it shall be appropriate that the authority concerned may decide First Appeal expeditiously. Learned counsel for the respondents has no objection to this innocuous prayer.

5. Accordingly, with the consent of the learned counsel for the parties, this Original Application is **disposed of** with the direction to the applicant to move a fresh First Appeal before the competent authority alongwith the documents required by the competent authority with a copy of this order and the same shall be decided by the competent authority by a reasoned and speaking order, if not already decided, within a period of four months from the date of receipt of a certified copy of this order and communicate the decision to the applicant.

6. No order as to costs.

**(Air Marshal BBP Sinha)**  
**Member (A)**

**(Justice SVS Rathore)**  
**Member (J)**

Dated: March, 2019  
PKG