

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 602 of 2024**Thursday, this the 27th day of March, 2025**“Hon’ble Mr. Justice Anil Kumar, Member (J)
Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”**

Service No. 721658T Ex AC (U/T) Vidya Dutt Dabral, of MTTI Avadi, Madras, son of Late Mahesha Nand Dabral, resident of Village – Masogi, Post Office – Dawolikhal, Tehsil – Jakhalikhal (Lansdowne), District – Pauri Garhwal (Uttarakhand), Pincode – 246144.

..... Applicant

Ld. Counsel for the : **Shri Kamal Kumar Singh Bisht**, Advocate
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Air Staff, Indian Air Force, Air Headquarters, Vayu Bhawan, New Delhi-110011.
3. Directorate of Air Veterans, Air Headquarters (SP), 1st Floor, SMC Building, Subroto Park, New Delhi-110010.
4. Joint Controller of Defence Accounts (Air Force), 2nd Floor, AFCAO Building, Subroto Park, New Delhi-110010.
5. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.)-211014.

.....Respondents

Ld. Counsel for the : **Shri Bipin Kumar Singh**, 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) *Issue/pass an order or direction to the respondents to grant disability element to the applicant on the basis of RAMB conducted at MH, Roorkee on 16 Jan 2021 which assessed his disability ID “Pulmonary Tuberculosis (011)” @100% (One Hundred percent) w.e.f. 16 Jan 2021 to for life including interim period from 19 Sep 1993 to 15 Jan 2021 @80% (Eight Percent).*
- (b) *Issue/pass an order or direction of appropriate nature to the respondents to grant the benefit of rounding off of disability element of disability pension to the applicant.*
- (c) *Issue/pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.*
- (d) *Allow this application with costs.*

2. Briefly stated, applicant was enrolled in the Indian Air Force on 20.04.1989 and invalided out from service on 26.03.1990 in Low Medical Category on having been found medically unfit for further service in the Indian Air Force under Rule 1592) Item (c) of the Indian Air Force Rules, 1969 for the disability ‘**PULMONARY TUBERCULOSIS (011)**’ after rendering 3490 days of qualifying

service. Before invalidation from service, the Invaliding Medical Board (IMB) assessed the applicant's disability '**PULMONARY TUBERCULOSIS (011)**' @100% for one year w.e.f. from 27.03.1990 to 15.02.1991 and opined the disability as attributable to service. Accordingly, the applicant was granted disability element @100% vide PPO No. 08/14/B/464/1991 dated 16.07.1991 for the period from 27.03.1990 to 15.02.1991. Thereafter, after RAMB, he was granted disability pension @60% from 19.09.1991 to 18.09.1993 with interim period from 16.02.1991 to 18.09.1991 vide PPO No. 08/14/B/237/1992. The applicant continuously approached the competent authorities for regularization of disability element of disability pension but of no avail. The applicant preferred representation dated 16.02.2016 which was replied vide letter dated 03.03.2016 wherein it has been stated that "*as you failed to attend the RAMB, your disability element has been discontinued w.e.f. 19 Sep 1993*". The applicant has not received any notice for the RAMB. On the basis of representation dated 16.01.2017, the Re-Assessment Medical Board (RAMB) was held at Military Hospital, Roorkee on 16.01.2021 which assessed the applicant's disability @100% for life and it has been stated that "*INTERVENING PERIOD MAY BE INCLUDED AT THE SAME DISABILITY PERCENTAGE AT THE DECISION OF PENSION SANCTIONING AUTH*". The applicant preferred several representations but till date Corrigendum PPO has not been

issued. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded that on the basis of RAMB conducted at Military Hospital, Roorkee on 16.01.2021 the applicant's disability was assessed @100% with effect from 16.01.2021 for life including interim period from 19.09.1993 to 15.01.2021 @80% the respondents have not issued Corrigendum PPO till date. He further submitted that earlier the applicant has not received any letter or notice for appearing before the RAMB as has been stated by the respondents. He further submitted that the applicant is entitled for the grant of arrears of disability element of disability pension.

4. On the other hand, Ld. Counsel for the respondents contended that in order to continue applicant's disability pension beyond 18.09.1993, RAMB was arranged but the applicant did not appear before RAMB. Consequently, applicant's disability pension was discontinued with effect from 19.09.1993. Moreover, the applicant is in receipt of Invalid Pension (Service Element of Service Pension). The applicant preferred representation dated 16.01.2017 for restoration of his disability pension. Subsequently, as the RAMB is delayed for more than 24 years, a time barred sanction has been obtained by Air Officer-in-Charge Administration dated 25.10.2019 and accordingly RAMB was held at Military

Hospital, Roorkee which assessed the applicant disability **'PULMONARY TUBERCULOSIS'** @100% with effect from 16.01.2021 for life including Interim Period from 19.09.1993 to 15.01.2021 @80%. Accordingly, the case for issue of Corrigendum PPO granting Disability Element @100% with effect from 16.01.2021 for life has been processed. He pleaded for dismissal of the Original Application.

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents. We have also gone through the records and we find that the questions which need to be answered are two folds:-

- (a) Whether the applicant is entitled for the issuance of Corrigendum PPO for the grant of disability element of disability pension @100% from 16.01.2021 for life?
- (b) Whether the applicant is entitled for the arrears for the intervening (interim) period i.e. from 19.09.1993 to 15.01.2021?

6. With regard to first question we find that in para 7 of the Counter Affidavit the respondents have themselves admitted that the case for issue of Corrigendum PPO granting disability element @100% with effect from 16.01.2021 for life has been processed. As such we are of the view that respondents be directed to issue

Corrigendum PPO for the grant of disability element of disability pension with effect from 16.01.2021 for life within a stipulated time.

7. With regard to second question, it is observed that claim for pension is based on continuing wrong and relief can be granted if such continuing wrong creates a continuing source of injury. In the case of ***Shiv Dass vs. Union of India***, reported in 2007 (3) SLR 445, Hon'ble Apex Court has observed:

“In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone.”

8. Although in the Original Application the applicant has stated that he had approached the competent authorities for regularization of disability element of disability pension from time to time but neither there is any supportive material on record nor the applicant has filed any cogent evidence in support of his aforesaid averment.

We find that the applicant has preferred representation dated 16.02.2016 which was replied by the respondents vide letter dated 03.03.2016. Thereafter, on the basis of another representation dated 16.01.2017, the Re-Assessment Medical Board (RAMB) was held on 16.01.2021.

9. Further, in view of the decision of Hon'ble Supreme Court in the case ***Shiv Dass (supra)*** we are of the view that the applicant is entitled for the arrears of disability element of pension three preceding years from the date of filing of the Original Application and the date of filing of this Original Application is 30.05.2024. Be it mentioned that the respondents have already processed the claim for the grant of disability element of disability pension with effect from 16.01.2021 for life. As such the applicant is not entitled for the arrears of disability element of disability pension for the intervening (interim) period i.e. from 19.03.1993 to 15.01.2021.

10. In view of the above, the **Original Application No. 602 of 2024** deserves to be partly allowed, hence **partly allowed**. The applicant is not entitled for the arrears of disability element of disability pension for the intervening (interim) period i.e. from 19.03.1993 to 15.01.2021. The respondents are directed to issue Corrigendum PPO for the grant of disability element of disability pension with effect from 16.01.2021 for life within a period of four

months from the date of receipt of a certified copy of this order.

Default will invite interest @8% per annum till the actual payment.

11. No order as to costs.

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Anil Kumar)
Member (J)

Dated : 27 March, 2025

AKD/-