

**Court No. 1**

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

**ORIGINAL APPLICATION No. 877 of 2023**

Wednesday, this the 27<sup>th</sup> day of November, 2024

**“Hon’ble Mr. Justice Anil Kumar, Member (J)**  
**Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”**

No. 4498109A, Ex. Rect. Desh Singh, S/o Raj Singh, R/o C/o Geeta Tomar, Khasra N. 135, Mauja Utharra, Agra, U.P.

**..... Applicant**

Ld. Counsel for the : **Shri Dharam Raj Singh**, Advocate  
 Applicant **Dr. Ashish Asthana**, Advocate  
**Shri Virat Anand Singh**, Advocate  
**Shri Vishal Bhatnagar**, Advocate

Versus

1. Union of India through the Secretary, Ministry of Defence, 101 South Block, New Delhi-110011.
2. Chief of Army Staff, Integrated Headquarters of the Ministry of Defence (Army), South Block, New Delhi-110011.
3. Additional Directorate General of Personnel Services/AG’s Branch, IHQ of Ministry of Defence (Army), PIN-900256, C/o 56 APO.
4. Officer-in-Charge Records, The SIKH LI, PIN-900927, C/o 56 APO.
5. PCDA (Pension), Draupadi Ghat, Allahabad.

**..... Respondents**

Ld. Counsel for the : **Shri Ashish 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. *To issue/pass an order or direction to set-aside/quash the letter/order no. 4498109/D/ Pen dated 23.05.2019 passed by respondents no. 4 and order/letter no. B/40502/372/2020/ AG/PS-4 (Imp-II) dated 15 September 2020 issued/pass by respondent no. 3 which are being annexed as Annexure No. A-1 and A-2 to this Original Application.*
- B. *To issue/pass an order or directions to the respondents for grant of disability pension @40% for life w.e.f. date of discharge/invalidment along with 12% interest on arrear in light of Hon’ble Apex Court judgments.*
- C. *To issue/pass an order or directions to the respondents grant benefit of rounding off disability pension in tune of @50% for life w.e.f. date of discharge/invalidment along with 12% interest on arrear in light of Hon’ble Apex Court judgments as stated above.*
- D. *To issue/pass any other order or direction as this Hon’ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.*
- E. *To allow this original application with costs.*

2. Briefly stated facts of the case are that applicant was enrolled in the Indian Army on 29.12.2018 and was **invalided out** from service on 31.03.2019 (AN) in Low Medical Category under Rule 13 (3) Item **IV** of the Army Rules, 1954. The applicant was granted Invalid Gratuity of Rs.15,064/- vide PCDA (P) Allahabad letter No. G3/VIII/ SIKH LI/C-232/2019 dated 29.01.2020. Before invalidation from service, the **Invaliding** Medical Board (**IMB**) held at Lucknow (UP) on 12.03.2019 assessed his disability **'ACUTE SCHIZOPHRENIA LIKE PSYCHOTIC DISORDER'** @**40%** for life 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 23.05.2019. The applicant preferred First Appeal dated 18.09.2019 which too was rejected vide letter dated **15.09.2020 which was communicated to the applicant vide letter dated 04.12.2020**. 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. Ld. Counsel for the applicant relied upon the law laid down by the Hon'ble Apex Court in the case of ***Ex. Gnr. Laxmanram Poonia (Dead) Through LRs Vs. Union of India & Ors***, Civil Appeal No. 2633 of 2017, decided on 22.02.2017. 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 **IMB** 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 **81** of Pension Regulations for the Army, **2008** (Part-I), which stipulates *that, "Service personnel who is invalided from service on account of a disability which is attributable to or aggravated by such service may, be granted a disability pension consisting of service element and disability element in accordance with the Regulations in this*

*section".* 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 29.12.2018, and the disease applicant was found to be suffering with in medical test first started on 10.01.2019, i.e. within one moth of joining the service.

7. In the above scenario, we are of the opinion that since the disease has started in less than one month 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 one month** of enrolment, we are in agreement with the opinion of **IMB** 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 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. Ld. Counsel for the applicant has placed reliance on case of ***Ex. Gnr. Laxmanram Poonia (Dead) Through LRs Vs. Union of India & Ors*** (supra) decided by the Hon’ble Apex Court on 22.02.2017. But the facts of this case is different from the case in hand. In case in hand the disease has started in less than one month of enrolment of the applicant. Moreover, the law laid down by the Hon’ble Apex Court in later decided case i.e. ***Ex Cfn. Narsingh Yadav vs Union of India & Ors*** (supra), decided on 03.10.2019 shall prevail over earlier decided case.

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

12. No order as to costs.

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

(Vice Admiral Atul Kumar Jain)  
Member (A)

Dated : 27 November, 2024  
AKD/-

(Justice Anil Kumar)  
Member (J)