

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

**ORIGINAL APPLICATION No. 268 of 2020**

Friday, this the 01<sup>st</sup> Day of October, 2021

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

No. 13980028-F Ex-Sepoy/Amb Asstt Sanjay Thakur of 314 Field Ambulance, C/o 56 APO, S/o late Kamlesh Singh Thakur, C/o Shri B.D Singh, House No. 592D/389, Rajiv Nagar (Ghoshiyana), Post Office- Kharika, District- Lucknow (U.P) Pin Code-226002.

..... Applicant

Ld. Counsel for the : **Shri KKS Bisht, Advocate**  
 Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New delhi-110011.
2. Chief of Army Staff, Integrated Head Quarter of the Ministry of Defence (Army), South Block, New Delhi-110011.
3. Additional Directorate General Personnel Service/ AG's Branch IHQ of MOD (Army) Pin-900256, C/o 56 APO.
4. Directorate General of Medical Service (Army) / DGMS-3D, Adjutant General's Branch, IHQ of MOD (Army) "L" Block, New Delhi-110001.
5. Officer –in-Charge Records and Commandant, Sena Chikitsa Corps Abhilekh, Army Medical Corps Record Office, Pin -900450, C/o 56 APO.

.....Respondents

Ld. Counsel for the : **Shri Shyam Singh,**  
 Respondents. **Central Govt. Counsel**

**ORDER**

**“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

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

(i) To issue /Pass an order or direction to the respondents to quash / set –aside the discharge of the applicant as his medical category has been improved from EEE to NIL by the Reassessment /Review of Medical Board (RAMB) held on 11 June 2018.

(ii) To issue / Pass an order or direction to the respondents to reinstate the applicant into service w.e.f. 16.10.1998 on the date on which his disability is improved by the RAMB held on 11.06.2018.

(iii) To issue / Pass an order or direction to the respondents to grant him all service and monetary consequences along with his batch mates.

(iv) Issue / pass any other order or direction as this Hon’ble tribunal may deem fit in the circumstances of the case.

(v) Allow this application with costs.

2. Brief facts of the case giving rise to this application are that the applicant was enrolled in the Army on 05.07.1989 and he was invalided out from service in low medical category on 16.10.1996 due to onset of disease “DEPRESSION (ICD 311)”.

Applicant filed O.A. No 244 of 2016 before this Tribunal which was allowed and applicant was granted 50% disability pension for two years. After two years, on 11.06.2018, Reassessment Medical Board of the applicant was held and his disability was assessed as NIL for life as such the applicant's medical category was improved and he is liable to be reinstated back into service. The applicant submitted representation to the respondents to reinstate him in service which was not replied by the respondents. Being aggrieved applicant has filed instant Original Application for reinstatement him in service.

3. Learned counsel for the applicant submitted that applicant was enrolled in the army on 07.05.1989 and invalided out from service on 16.10.1996 in low medical category before completion of terms of engagement having been found medically unfit for further service due to onset of disease "DEPRESSION (ICD- 311)" in low medical category EEE. Invaliding Medical Board (IMB) considered his disability as 40% for two years. The applicant was required to be called for Re-assessment Medical Board for assessment of his further disability wef 16.10.1998. His disability pension claim was also rejected and he was never called for re-assessment medical Board for further entitlement of disability pension. Applicant filed

application which was allowed and applicant was granted 50% disability pension for two years. Reassessment Medical Board due ton 16.10.1998 was done on 11.06.2018 after 20 years that too in compliance of this Hon'ble Tribunal's order dated 30.08.2017. The delayed assessment has adversely affected the career progression of the applicant as his batch mates have been promoted to the rank of Subedar Major while he was out of service for no rhyme or reason. Learned counsel for the applicant prayed that since disability of the applicant has been assessed as NIL, he should be taken in service.

4. On the other hand, learned counsel for the respondents submitted that applicant was invalided out from service after completion of 07 years, 03 months and 12 days of service in low medical category EEE. Claim of the applicant for grant of disability pension was rejected as the disability of the applicant was found as neither attributable to nor aggravated by military service. In compliance of order of this Tribunal dated 30.08.2017 passed in O.A. No 244 of 2016, applicant was granted service element of disability pension wef 17.10.1996 for life and disability elements of disability pension @ 50% for two years vide PPO dated 26.04.2018. Thereafter, Reassessment Medical Board of the applicant was held on

11.06.2018 and Medical Board assessed his disability as NIL and opined that '*individual does not require any medicine. He has recovered*'. Disability element of the applicant was stopped disability being NIL. Now the applicant has filed instant O.A. for reinstatement him in service. There is no provision to reinstate the applicant in service. Learned counsel for the respondents submitted that instant Original Applicant has no substance and is liable to be dismissed.

5. We have heard learned counsel for the parties and perused the documents available on record.

6. The question before us for consideration is whether applicant can be reinstated in service when his disability is NIL?

7. In the instant case, applicant was invalided out from service on 16.10.1996 after completion of 07 years, 03 months and 12 days of service in low medical category EEE. He was granted disability pension @ 50% for two years. After two years, his Reassessment Medical Board was held on 11.06.2018 and disability was found as NIL. Accordingly, disability element was stopped. Applicant is getting service element of pension. The present O.A. was filed on 15.03.2019 after about 22 years of discharge of the applicant from service

and much water has flown during this period, therefore, it is time barred. The time is the essence for reinstatement. The prolonged discharge cannot be reversed at a belated stage. We agree to the contention of the respondents that the applicant having been discharged from service w.e.f. 16.10.1996, does not meet with any of the conditions stipulated in the policy, therefore, no question arises for his reinstatement into service.

8. On due consideration of the case, we find that applicant cannot be reinstated in service. Original Application is bereft of any merit qua the relief for reinstatement into service, which prayer is hereby rejected.

9. Resultantly, the O.A. is dismissed.

10. No order as to costs.

11. Pending applications, if any, stand disposed off.

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

Dated: 01 October, 2021

Ukt/-