

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**Original Application No 492 of 2022****Monday, this the 10th day of October, 2022****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)Ex Sub No. JC-147635Y Shiv Kumar Singh
S/o Late Shri Chinta Nand Singh
R/o Pandit Deen Dayal Upadhyaya Nagar,
Saraswan, Arjun Ganj, Lucknow – 226002

..... Applicant

Ld. Counsel for the Applicant: **Shri Virat Anand Singh**, Advocate

Versus

1. Union of India, through Secretary, Ministry of Defence (Army), South Block, New Delhi.
2. Chief of Army Staff, Army Headquarters, Sena Bhawan, New Delhi 0 110106.
3. Senior Record Officer, Army Postal Service Records, PIN-900746, C/o 56 APO.

..... Respondents

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

“(A) To quash or set aside the finding of the medical board whereby for not recommending applicant disability for disability pension.

(B) To Issue order or directions to the respondents to grant disability pension of the applicant for the disability he had, with effect from April 2008 (date of SoS March 2008) with all

consequential benefits including rounding off benefit from 20% to 50% in terms of Govt of India letter dated 31 Jan 2001 and judgment passed by Hon'ble Apex Court in case of Ram Avtar vs. UOI & Others.

(C) Any other relief as considered proper by the Hon'ble Tribunal be awarded in favour of the applicant.

(D) Allow this application with cost.”

2. The facts of the case, in brief, are that the applicant was that applicant voluntarily joined Army Postal Service (APS) on 02.09.1976 in the rank of Warrant Officer (WO) on deputation from Department of Posts. The applicant was placed in Low medical Category (LMC) w.e.f. 12.12.2007 for disability “**CNB (INV) WRITERS CRAMP**”. Consequent upon his request to repatriate from APS to his parent Department, APS Records approved discharge of the applicant and he was repatriated from Army service on extreme compassionate grounds w.e.f. 16.03.2008. Before repatriation from Army, the applicant was brought before RMB and his disability “**CNB (INV) WRITERS CRAMP**” was assessed @ 20% for life and classified as aggravated and connected with military service. The disability pension claim of the applicant was adjudicated and rejected by the competent authority on 16.05.2008. The applicant submitted an application dated 23.06.2020 for grant of disability pension which was suitably replied by APS Records vide letter dated 23.03.2020 stating therein that applicant belongs to Department of Posts and is entitled pensionary benefits from his parent department only. Hence the instant Original Application has been filed.

3. Learned Counsel for the applicant submitted that the applicant was medically fit when he was enrolled in the service on 02.09.1976 and joined Army Postal Services and any disability not recorded at the time of enrolment should be presumed to have been caused subsequently. The applicant was diagnosed for '**CNS (INV) WRITERS CRAMP-G-37**' with 20% disability for life. However, the Medical Board held the disability as constitutional in nature and neither attributable to nor aggravated by military service. The applicant was SOS from service in the month of March 2008. The disability pension claim of the applicant was rejected vide order dated 17.05.2008. Feeling aggrieved, the applicant made first appeal to the authorities on 18.08.2008 but no relief was granted to the applicant. Being aggrieved by denial of disability pension, the applicant has filed the present Original Application.

4. Learned counsel for the applicant relied on the decision of the Hon'ble Supreme Court in ***Dharamvir Singh v. Union of India and others***, (2013) 7 SCC 316, ***Union of India and Others vs. Rajbir Singh*** (2015) 12 SCC 264, ***Union of India vs. Manjeet Singh*** (2015) 12 SCC 275 and ***Veerpal Singh vs. Secretary, Ministry of Defence*** (2013) 8 SCC 83 and pleaded that disability of the applicant is to be considered as aggravated by service and he is entitled to get disability pension @ 20% for life duly rounded off to 50% in terms of Govt. of India letter dated 31.01.2001.

5. Learned counsel for the respondents submitted that applicant voluntarily joined Army Postal Service (APS) on 02.09.1976 in the

rank of Warrant Officer (WO) on deputation from Department of Posts for short term engagement of 18 months and so long thereafter his services may be required. He was promoted to the rank of Nb Sub on 16.05.1985 and Subedar on 21.05.1991. The applicant was repatriated to his parent Department w.e.f. 16.03.2008 on Extreme Compassionate Grounds at his own request. The applicant was placed in Low medical Category (LMC) w.e.f. 12.12.2007 for disability "**CNB (INV) WRITERS CRAMP**". Consequent upon his request to repatriate from APS to his parent Department, APS Records approved discharge of the applicant vide Signal dated 17.12.2007 and applicant was repatriated from Army service on extreme compassionate grounds w.e.f. 16.03.2008. Before repatriation from Army, the applicant was brought before RMB and his disability "**CNB (INV) WRITERS CRAMP**" was assessed @ 20% for life and classified as aggravated and connected with military service. The disability pension claim of the applicant was adjudicated and rejected by the competent authority on 16.05.2008. The applicant submitted an application dated 23.06.2020 for grant of disability pension which was suitably replied by APS Records vide letter dated 23.03.2020.

6. Learned counsel for the respondents further submitted that Post & Telegraph (P&T) deputationists are being granted service pension from Department of Posts only. Since, the applicant was enrolled in APS as a deputationist from Department of Posts and repatriated to his parent Department w.e.f. 16.03.2008 at his own request for continuation of further service with his parent Department (Department of Posts), he is entitled service pension/disability

pension from civil side only. He further submitted that as per IHQ of MoD (Army) letter dated 08.02.1995, Warrant Officers (WO) are treated at par with the JCO for the purpose of messing, accommodation and travel concession only and not for pension purpose. Since, the applicant being deputationist from Department of Posts to APS, is governed by CCS Rules, 1972, he is not eligible for disability pension from Army side as he is getting pension from his parent department i.e. civil side. He pleaded for dismissal of O.A.

7. We have heard learned counsel for the parties and have perused the record.

8. Before adverting to rival submissions of learned counsel of both sides, it is pertinent to mention that judgments relied upon by the applicant in Para 4 referred above are not relevant in the present case being facts and circumstances of the instant case are quite different as applicant pertains to Department of Posts who was deputationist and repatriated to his parent department from where he is being paid pensionary benefits and therefore, applicant cannot be given the benefit of aforesaid judgments.

9. We find that applicant has served in Army Postal Service as a deputationist from Department of Posts and after repatriation from Army, he is getting pension from his parent department (Department of Posts). Hence, we are of the view that prayer of the applicant for providing disability pension through Army who is governed by Central Civil Services (CCS) Rules, 1972, is illogical and irrelevant as per rules being a deputationist from Department of Posts. The prayer of

the applicant has rightly been rejected by the respondents which need no interference.

10. In view of above, O.A. has no merit, deserves to be dismissed and is accordingly **dismissed**.

11. No order as to costs.

12. Pending Misc. Application(s), if any, shall stand disposed off.

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

Dated: October, 2022

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