

RESERVED
Court No. 1

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

Original Application No. 327 of 2018

Monday, this the 30th day of September, 2019

Hon'ble Mr. Justice Virender Singh, Chairperson
Hon'ble Air Marshal BBP Sinha, Member (A)

No-15337424, Ex-Spr Indra Pal Singh
S/o Sri Hari Singh
R/o Vill – Begampur
PO – Mohabbatpur
Tehsil – Karhal
Dist - Mainpuri

.....Applicant

Ld. Counsel for : **Shri Parijaat Belaura,**
the Applicant **Advocate**

Versus

1. Union of India, through Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Chief of Army Staff,
Army Headquarter Ministry of Defence,
Government of India, South Block,
New Delhi – 110011.
3. The Chief Record officer BEG Records,
Roorkee Pin No – 900477 C/o 56 APO.
4. The Principal Controller of Defence Account (Pension),
Draupadi Ghat, Allahabad.

.....Respondents

Ld. Counsel for the : **Dr. Gyan Singh,**
Respondents **Ld. Counsel for Central Govt.**

ORDER

“Per Hon’ble Mr. Justice Virender Singh, Chairperson”

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:-

“(I) To grant disability pension @ 30% and round of the same to 50% giving the benefit of Govt. Of India, Ministry of Defense letter dated 31.01.2001, w.e.f. date of discharge of applicant i.e. 31.01.2017.

“(II) To pay arrear of disability pension along with 12% interest from the date of his discharge i.e. 01.02.2017 till it is actually paid.

“(III) Any other suitable relief this Hon’ble Court deems fit and proper may also be granted.”

2. The undisputed facts, as averred by the learned counsel for both the parties are that the applicant was enrolled in the Indian Army on 08.01.2000 in medically fit condition and discharged from service on completion of the terms of engagement on 31.01.2017 in low medical category S1H1A1P2E1 after serving 17 years in the rank of Sapper. The Release Medical Board held before retirement, considered the disability **“GRAVE’S DISEASE E05”** as neither attributable to nor aggravated by military service and assessed it 30% for life. The claim of the applicant for grant of disability pension was rejected by the competent authority. The applicant filed first appeal dated 16.05.2017 which was forwarded to First Appellate Committee and the appeal was accepted by First Appellate Committee as ‘Aggravated’ @ 30%

for life vide Army Headquarters letter dated 29.12.2017 (Annexure IV to Counter Affidavit). The applicant has submitted a reminder dated 30.01.2018 to the respondents for grant of disability pension but no action has been taken by the respondents till date. Aggrieved by the denial of disability pension, the applicant has filed this Original Application.

3. Learned counsel for the applicant submitted that the disability of the applicant i.e. **“GRAVE’S DISEASE E05”** though initially NANA by RMB has been accepted as ‘Aggravated’ by First Appellate Committee vide Additional Directorate General of Personnel Services, New Delhi letter dated 29.12.2017 and the applicant is eligible for disability element @ 30% rounded off to 50% for life. He pleaded for grant of disability pension @ 30% for life for his disability **“GRAVE’S DISEASE E05”** which should be rounded off to 50% for life in terms of Government letter dated 31.01.2001. He lamented that it is going to be two years in a few months from the original decision of Ist Appellate Committee, but respondents have not yet released his disability element.

4. The learned counsel for the respondents has not disputed that the applicant’s disability has been conceded as ‘Aggravated’ @ 30% by First Appellate Committee vide their letter dated 29.12.2017. He, however, submitted that necessary documents have been forwarded to PCDA (P) Pension, Allahabad for issuance of PPO and a reminder was also sent to PCDA (P) Allahabad vide BEG Records, Roorkee

letter dated 15.06.2018 but Corrigendum PPO for grant of disability pension is still awaited from PCDA (P) Allahabad.

5. We have heard Ld. Counsel for the parties and perused the RMB. Since the First Appellate Committee has conceded Aggravation in December 2017, it is only a matter of implementation and issue of PPO.

6. However, we take a dim view of respondents who have kept the matter hanging since about last two years. We are pained by the helplessness of Record Office who it appears are unable to help their soldiers genuine causes. It appears that the Record Offices need to rediscover themselves so that they become more effective. However, we can't leave a retired soldier hopeless and helpless in the hands of the system.

7. In view of the above the Original Application deserves to be allowed.

8. Accordingly the O.A. is **allowed**. The disability of the applicant is to be considered as Aggravated @ 30% for life rounded off to 50% for life with effect from the date of discharge i.e. 31.01.2017. The respondents are further directed to grant 8% interest to the applicant on the arrears w.e.f. 31.01.2018 so that he doesn't suffer due to lack of initiative and action on the part of respondents. The respondents are free to hold an inquiry, identify the erring officer for this delay and recover the interest component from him/her. The impugned orders passed by the respondents are set aside. In case the

respondents fail to give effect to this order within next four months from the date of this order, they will have to pay interest @ 9% on the entire amount accrued from due date till the date of actual payment.

9. No order as to cost.

(Air Marshal BBP Sinha)
Member (A)

Dated: September, 2019
SB

(Justice Virender Singh)
Chairperson