

**e-Court**

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

**Original Application No. 122 of 2021**

Tuesday, this the 08<sup>th</sup> day of February, 2022

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

Smt Anguri Devi W/o late Rect Hambir Singh, R/o Vill-Peepli Kala, PO-Nagla Jagdev, Distt-Aligarh (UP).

.... Applicant

Ld. Counsel for the: **Shri KK Misra**, Advocate.  
Applicant

Versus

1. Union of India, through its Secretary, Min of Defence, New Delhi.
2. The Chief of Army Staff, South Block, New Delhi.
3. Officer-in-Charge, Records, The JAT Regiment, Bareilly.
4. PCDA (P), Allahabad.

... Respondents

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

- (I) Grant of 30% disability pension to the applicant as per his entitlement w.e.f. the date of his discharge from the service i.e. 28 April 1970.*
- (II) Thereafter, round of this percentage of disability to 50% and pay the arrears of pension from the date of his discharge with interest as applicable.*
- (III) Any other relief which Hon'ble Court may think just and proper may be granted in favour of the applicant.*
- (IV) Cost of the case may be allowed.*

2. Brief facts of the case are that applicant's husband was enrolled in the Indian army on 26.08.1969 and was invalided out of service w.e.f. 28.04.1970 (AN) in low medical category 'EEE' for the disabilities 'Chronic Trachoma both eyes (076)' and 'Uveitis both eyes (369)'. The Invaliding Medical Board (IMB) held on 12.02.1970 has assessed his disabilities @ 30% for life neither attributable to nor aggravated by military service (NANA). Disability pension claim was rejected vide order dated 06.06.1970 and communicated to applicant's husband vide letter dated 19.06.1970. Thereafter, first appeal dated 17.07.1970 preferred against rejection of disability pension claim was rejected vide order dated 12.10.1970 on the ground of disability being NANA.

3. Learned counsel for the applicant pleaded that applicant's husband was enrolled in the Army in medically and physically fit condition. It was further pleaded that a member is to be

presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entry into service. 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. He submitted that applicant was a part of wrestling team who, while participating in inter unit competition, sustained injuries in his neck and eyes which led the disability. He pleaded for disability pension to be granted to applicant in view of the Hon'ble Apex Court judgment in the case of ***Dharamvir Singh vs Union of India & Ors***, Civil Appeal No 4949 of 2010 decided on 02.07.2014 and ***Sukhwinder Singh vs Union of India & Ors***, Civil Appeal No 5605 of 2010 decided on 25.06.2014.

4. On the other hand, Ld. Counsel for the respondents submitted that applicant, while undergoing recruit training was found suffering from 'Chronic Trachoma both eyes (076)' and 'Uveitis both eyes (369)'. He was admitted to Military Hospital, Bareilly where the medical authorities declared him to be invalided out of service with disability @ 30% for life neither attributable to nor aggravated by military service in medical category 'EEE' for the disabilities aforesaid. Learned counsel for the respondents further contended that since the medical board has recommended the disabilities to be NANA, the pension sanctioning authority i.e. PCDA (P) Allahabad has rightly rejected disability pension claim on the grounds of disability being neither attributable to nor

aggravated by military service. He further submitted that the medical officer has also endorsed in Part III of the medical board that the aforementioned disabilities were existing prior to enrolment. He pleaded the O.A. to be dismissed.

5. We have heard learned counsel for both sides and perused the material placed on record.

6. On careful perusal of the record, it has emerged that applicant was enrolled on 26.08.1969 and during the course of military training he was admitted in Military Hospital, Bareilly on 05.12.1969 where his IMB was carried out and as per recommendation of medical board, he was invalided out of service in medical category 'EEE'. During the course of his admission in the hospital, his disease was diagnosed as under:-

#### DIAGNOSIS

*"this recruit from JRC Bareilly was admitted to this hospital on 05.12.69 with redness of the right eye and defective vision in the right eye, of 15 days duration."*

#### PAST HISTORY

*"He had similar complaint for one week about one year ago."*

#### OPINION OF OPHTHOMOLOGIST

*"A recruit with only four months service in a peace area suffering from "chronic trachoma BE with corneal scarring BE. Uveitis BE-effects of, defective vision BE. Not likely to make an efficient soldier. Recommended med cat 'EEE'"*

7. The aforesaid opinion of the Specialist shows that applicant's husband was suffering from aforesaid ailment prior to

enrolment, and the said disability was not developed during military service, therefore, it is not connected with military service. In view of this, there appears to be strong weightage in the stand of the respondents that disabilities 'Chronic Trachoma both eyes (076)' and 'Uveitis both eyes (369)' in respect of applicant's husband were not connected with military service as opined by the IMB.

8. In view of the foregoing, and the fact that the disease of applicant's husband was existing prior to enrolment, we are in agreement with the opinion of IMB that disabilities of applicant's husband were neither attributable to nor aggravated by military service and therefore, she is not entitled to disability pension or any kind of pension.

9. In view of the above, the O.A. is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

10. No order as to cost.

11. Misc application(s), pending if any, stand disposed off.

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

Dated: 08.02.2022

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