

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 720 of 2021**Thursday, this the 14th day of July, 2022**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Ex. MA II/EX No. 114328N, V.P. Tiwari, S/o Shri Laxmi Narayan Tiwari, R/o 5/136, Sector – H, Jankipuram, Near Sahara State, Lucknow (U.P.).

..... **Applicant**Ld. Counsel for the: **Shri Vijay Kumar Pandey**, Advocate.
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, R.K. Puram, New Delhi.
2. OIC Records, Records Bureau of Sailors, Cheetah Camp, Mankhurd, Mumbai-400088.
3. Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad (U.P.)-211014.

.....**Respondents**Ld. Counsel for the : **Shri Arun Kumar Sahu**, Advocate
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) *That this Hon’ble Tribunal may kindly be pleased to direct the opposite parties to grant the disability pension to the applicant for life w.e.f. 25.09.1990, to*

actual date of payment and also onwards, and provide the interest on the aforesaid delayed amount of disability pension with 18% p.a. since due date to actual date of payment in the interest of justice.

- (ii) That this Hon'ble Tribunal may kindly be awarded the cost Rs.20,20,000/- (Rs. Twenty Lac and Twenty Thousand) to the applicant against the opposite parties.*
- (iii) That this Hon'ble Tribunal may be pleased to pass any other order or direction which this Hon'ble Court may deem just and proper be passed in favour of the applicant.*

2. Briefly stated, applicant was enrolled in the Indian Navy on 14.02.1985 and was discharged from service on 24.09.1990 as 'Service No Longer Required (SNLR) after completion of 05 years, 07 months and 10 days. As per Original Application, the applicant was discharged on medical ground for the disease of S3A3 (ICD 301 a) 'PARANOID' and it was assessed by Medical Board @45% for life attributable to and aggravated by Naval Service. The applicant's claim for grant of disability pension was not granted by the respondents. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded that at the time of enrolment, the applicant was found mentally and physically fit for service in the Navy and there is no note in the service documents that he was suffering from any disease at the time of enrolment in Navy. He pleaded that various Benches of Armed Forces Tribunal

have granted disability pension in similar cases, as such the applicant be granted disability pension.

4. On the other hand, learned counsel for the respondents submitted that the aspect of eligibility for disability pension cannot be commented upon as the applicant's Release Medical Board proceedings and copy of rejection letter whereby his disability pension was rejected by the authority are not available in records of applicant held with the respondents being of more than 28 years of old. He further submitted that the Government of India policy relevant in the instant case with regard to destruction of records older than 10 years. Accordingly, fetching of subject medical documents being vintage in nature is not feasible even in the records held with last unit. The same would have been weeded out being 28 years old documents. He further submitted that applicant was discharged from service as 'Service No Longer Required (SNLR) from Naval Service. He pleaded the Original Application to be dismissed being devoid of merit.

5. Heard Ld. Counsel of both sides and perused the records and we find that according to Government of India Policy relevant in the applicant's case with regard to destruction of records older than 10 years and applicant's Release Medical Board proceedings and rejection letter as well as other service records are not available with the respondents. We could have decided the case, had there been related medical documents pertaining to the applicant and applicant could have been benefitted, but we are

unable to impart justice in the absence of requisite medical documents.

6. In view of the above, we are unable to decide the case in vacuum after a prolonged gap of more than 28 years from the date of discharge of the applicant. Original Application is devoid of merit and is liable to be dismissed. It is accordingly **dismissed**.

7. Pending misc. applications, if any, are disposed off.

8. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 14 July, 2022

AKD/-