

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

12.  
OA 527/2014  
With MA 604/2014

Sep Dvr Raj Kumar  
Versus  
UOI & Ors

.....Petitioner

.....Respondents

For petitioner : Ms Archana Ramesh, Advocate  
For respondents : Mr SP Sharma , Advocate

CORAM:  
HON'BLE MR. JUSTICE PRAKASH TATIA, CHAIRPERSON.  
HON'BLE LT. GEN. SANJIV LANGER, MEMBER.

O R D E R  
12.03.2015

Heard the learned counsel for the parties.

2. The petitioner is aggrieved because of denial of disability pension, hence has preferred this OA.

3. The petitioner was enrolled in Military Service on 27.10.1993, and was discharged from service on 31.12.2001 in the rank of Sepoy due to petitioner's falling in low medical category (P-2). The present OA is only for seeking the relief of disability pension, on the ground that when the petitioner entered into service, he was in a fit medical condition and due to his military service condition, he suffered the disease of 'Dissociative State', causing disability at the rate of 15-19%. The petitioner's disability pension has been rejected, on the ground that the petitioner's disability is neither attributable to nor aggravated by the petitioner's military service as well as his disability being less than 20%.

4. Learned counsel for the petitioner submitted that the Medical Board has not given any 'reasoned opinion' nor even has looked into the petitioner's disability properly. In view of the above fact only, the petitioner is entitled to disability pension in the light of the judgments of the Hon'ble Supreme Court in the cases of **Dharamvir Singh Vs. Union of India &Ors, (2013) 7 SCC 316** and **Sukhvinder Singh Vs Union of India & Ors, (2014) STPL (Web) 468 SC.**

5. Learned counsel for the respondents submitted that the petitioner was examined by the Medical Board, and he was discharged in accordance with law, which is clear from dismissal of the petitioner's earlier litigation, wherein the petitioner had challenged his order of

discharge from service. It is also submitted that the Medical Board found that the petitioner's disease is a 'constitutional disorder' and not connected with his service condition.

6. In view of the above referred two judgments, relied upon by the learned counsel for the petitioner, we need not to give more facts and reasons, and it can be safely held that the Medical Board has not given any reason for drawing the conclusion, and that too that the petitioner's disease is a 'constitutional disorder', which is a vague opinion.

7. So far as the petitioner's disability, being less than 20% is concerned, in view of the Government of India letter dated 31.01.2001, the disability even less than 20% is required to be rounded off to 50%. Therefore, the petitioner's claim on this ground has also been wrongly rejected by the respondents.

8. Therefore, this OA is allowed, and it is held that the petitioner's disease is attributable to or aggravated by Military Service, and therefore, the petitioner became entitled to disability pension in the light of Government of India letter dated 31.01.2001, which provides that the disability less than 50% will be rounded off to 50%. The petitioner shall be entitled to disability pension at the rate of 50% with the arrears of past three years from the date of filing of this OA, which is filed on 13.10.2014, with interest at the rate of 12% per annum over the arrears. The order may be implemented within three months from the date of receipt of a copy of this order. No order as to costs.

**(PRAKASH TATIA)**  
**CHAIRPERSON**

**(SANJIV LANGER)**  
**MEMBER**

Dated:12.03.2015  
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