

**ARMED FORCES TRIBUNAL CHANDIGARH BENCH AT  
CHANDIMANDIR**

**O.A. No.48 of 2010**

**Jaswinder Singh**

**Vs**

**U.O.I & ors.**

**ORDER**

Present: For the applicant: Mr. Rajeev Anand, Advocate.

For the respondents: Mr. Sandeep Bansal, CGC

**JUSTICE GHANSHYAM PRASAD**

Photo copy of the proceedings of the Release Medical Board has been filed by the learned counsel for the petitioner.

Heard learned counsel for both the parties.

It appears from the record that the petitioner was enrolled in the Indian Army in the year 1990 and ultimately he was invalidated out of the military service on 31-03-2008 on medical ground. The Release Medical Board was held on 23-10-2008 and the petitioner was found to suffer from two diseases. The first is “**ACYANOTIC COGENITAL HEART DISEASE**” and the second is “**HYPERTENSION**” The percentage of disability as assessed by the Release Medical Board was 30% for each disease and 50% as composite assessment. However, the Release Medical Board did not find the diseases attributable to or aggravated as a result of the military service.

The submission of the learned counsel for the petitioner is that at the time of entry of the petitioner into military service, there was

not any Note to the effect that he was suffering from the above mentioned diseases. At the time of entry of the petitioner into Indian Army, his medical category was found SHAPE-I.

It is further contended by the learned counsel for the petitioner that during the service period, the petitioner was posted at different places including Siachen Glacier, as a result of which, he developed both the diseases.

It is also submitted by the learned counsel for the petitioner that both the diseases have been mentioned in classification of the diseases in Annexure –III to Appendix-II of Entitlement Rules, 1982 which normally occur as a result of stress and strain of military service.

It is further submitted by the learned counsel for the petitioner that no specific ground has been mentioned in the Medical Board proceedings as to how these diseases are not deemed to be attributable to or aggravated as a result of the military service.

The learned counsel for the petitioner also contends that in view of Rule 14(b) of Entitlement Rules, 1982 in absence of any Note at the time of entry of the petitioner into service or if no specific reason is assigned in the proceedings of the Release Medical Board, the presumption would be that the disease are deemed to be attributable to or aggravated as a result of the military service.

We have considered the proceedings of the Release Medical Board as well as Rule 14(b) of the Entitlement Rules, 1982 as also para 173 of Pension Regulations for the Army, 196. The facts as mentioned above, would clearly go to show that the case of the petitioner falls

within the ambit of para 173 of Pension Regulations for grant of disability pension.

Accordingly, this application is allowed. The respondents are directed to assess and release the disability pension in favour of the petitioner in accordance with Rules, Regulations and instructions, within three months from the date of receipt of this order. The petitioner is entitled to get arrears also from the date of retirement i.e. 31<sup>st</sup> March, 2008.

**(Justice Ghanshyam Prasad)**

**(Lt Gen H S Panag (Retd))**

**23-02-2010**  
**'dls'**