

**ARMED FORCES TRIBUNAL CHANDIGARH REGIONAL BENCH AT
CHANDIMANDIR**

O.A. No. 57 of 2010

Roop Lal ... **Applicant**

Vs

Union of India and others ... **Respondents**

ORDER

02.06.2010

Coram : **Justice Ghanshyam Prasad, Judicial Member.**

Lt Gen H.S. Panag (Retd), Administrative Member.

For the Petitioner(s) : Mr. Ravi Badyal ,Advocate

For the respondent(s) : Mr.Renu Bala Sharma, CGC

JUSTICE GHANSHYAM PRASAD.

The petitioner was enrolled in the Army on 02.06.1975. He was discharged from the Army on 31.01.1992 after having rendered 16 years 7 months and 29 days of service. Thereafter, he was re-enrolled in Defence Service Corps as Lance Naik on 09.04.1996 after medical examination. However, he was discharged on 30.04.2006 after having rendered 10 years 22 days service, on medical grounds and his disability was assessed as 30%. He was also brought before the Medical Board who found the petitioner suffering from two diseases – one **Diabetic Mellitus (NIDDM) ID** and the other one is **PRIMARY HYPERTENSION.** They also assessed their percentage of disability as 30% for Primary Hypertension. So far attributability is concerned , in paragraph 17 of the Medical Board Proceedings, it has been stated that the disability was contracted while the

petitioner was in service. The Medical Board Proceedings is at **Annexure A-2**.

Heard the learned counsel for both the parties.

The only submission of the learned counsel for the respondents is that the disability for which the petitioner was boarded out of the Defence Service Corps was not attributable to or aggravated as a result of military service. Therefore the petitioner is not entitled to get disability pension. However the learned counsel for the respondents does not dispute the percentage of the disability and nature of the disability i.e. Primary Hypertension.

It has already been held by different Hon'ble High Courts as well as this Bench that the **Primary Hypertension** is normally contracted due to stress and strain of military service. The decision of this Bench dated 11.02.2010 passed in O.A. No 66 of 2010 has been referred. Apart from it, it appears that the disease was manifested after 26 years of the military and Defence Service Corps service. Therefore, in view of Rules 14(b) of the Entitlement Rule 1982, it is also deemed to be attributable to military service.

Thus, having regard to the facts and circumstances of the case as well as the report of the Medical Board Proceedings, we are of the view that the petitioner is entitled to get disability pension for Defence Service Corps's service for 30% disability.

Accordingly this application is allowed. The respondents are directed to assess and release the disability pension in favour of the petitioner within six months from the receipt of this order. The petitioner is

also entitled to get arrears from the date of his discharge with interest @ 6%.

(Justice Ghanshyam Prasad)

[Lt Gen H.S. PanagRetd)]

02.06.2010
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