

**ARMED FORCES TRIBUNAL CHANDIGARH BENCH AT  
CHANDIMANDIR**

**T.A. No. 234 of 2010  
(arising out of CWP No. 13619 of 2009)**

**Jasbir singh**

**.....Petitioner**

**Vs.**

**UOI & Ors**

**..... Respondents**

**ORDER  
24-09-2010**

**Coram: Justice Ghanshyam Prasad, Judicial Member  
Lt Gen A S Bahia (Retd), Adminisrative Member.**

For the applicant (s) : Major Balbir Singh, Advocate.

For the respondent (s) : Ms Jaspal Kaur, CGC.

**JUSTICE GHANSHYAM PRASAD :**

This case has been received on transfer from the Hon'ble Punjab and Haryana High Court and has been treated as application under Section 14/15 of the Armed Forces Tribunal Act, 2007.

Reply has been filed today in Court. It is taken on record.

The petitioner joined the Indian Army on 13-07-1999. On 8-12-2000 he proceeded on casual leave for six days. While he was returning from leave, he met with an accident on 12-12-2000. Thereafter he was admitted to Military Hospital, Patiala and injury was declared as **LATERAL CONLDYLE TIBA (RT)** of severe nature. On 16-02-2001 he was again admitted to Military Hospital, Patiala. A court of Inquiry was held to investigate the circumstances under which the injury of severe

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nature was sustained by the petitioner. Ultimately, he was discharged from service on 31-03-2006. Prior to that, Release Medical Board was held. The Release Medical Board assessed his disability as 20% for life. However, the same was found neither attributable to nor aggravated as a result of military service.

The learned counsel for the respondents referred to the opinion of the Court of Inquiry (Annexure P-3). According to the Court of Inquiry the individual met with the accident under the circumstances which were not in his control. Hence, he is not to be blamed. It is further mentioned that the disability is not attributable to military service.

Apparently, the opinion of the Court of Inquiry regarding attributability is neither legal nor justified. The Court of Inquiry has not taken into consideration the fact that the injury was suffered by the petitioner while he was on authorized leave which is deemed to be on duty. Taking into account the opinion of the Court of Inquiry as well as the settled law that an individual, who is on authorized leave, if suffers an injury under the circumstances beyond his control, is deemed to be on duty, we are of the view that the injury sustained by the petitioner is attributable to military service. Therefore, he is entitled to get disability pension as per paragraph 173 of Pension Regulations for the Army, 1961.

Accordingly, this application is allowed. The respondents are directed to assess and release the disability pension for 20% disability

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for life in favour of the petitioner from the date of his discharge, within a period of six months from the date of receipt of this order. The petitioner is also entitled to get arrears of the disability pension from the date of filing of this petition with interest 10% per annum.

**(Justice Ghanshyam Prasad)**

**(Lt Gen A S Bahia (Retd))**

**24-09-2010  
'dls'**