

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, CHENNAI**

**(Through Video Conferencing)**

MA No.198 of 2020

In

OA No. 217 2020

Thursday, the 12<sup>th</sup> day of August, 2021

**4**

**CORAM :**

**HON'BLE MR.JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN BOBBY CHERIAN MATHEWS, MEMBER (A)**

Ex Nk Rama Krishna Subbiah, aged 74 years,  
S.No. 6891852M, AOC 54 Inf Divn, Ord Unit,  
House No.8/19 North Street, Agathapatti,  
Kalligudi Post , Madurai District  
Tamilnadu 625 701

.. Applicant

By Legal Practitioner : Shri V.K.Vijayakumaran, Advocate

Vs

1. Union of India rep by Secretary to Government,  
Ministry of Defence, New Delhi 110 010
2. The Chief of Army Staff,  
AHQ, IHQ of MoD, Kashmir House,  
Rajaji Marg, DHQ PO, New Delhi 110 011
3. The Principal Controller of Defence Accounts,  
Draupathi Ghat, Allahabad, UP 211 014
4. The Officer-in-Charge (Records),  
Army Ordnance Corps Records,  
Pin 900 453 C/o 56 APO
5. The Managing Director,  
Army Group Insurance Fund,  
Rao Tularam Marg, Vasanth Vihar Post, New Delhi
6. The Officer Commanding  
54, Infantry Division Ordnance Unit,  
c/o 56 APO

.. Respondents

By : Shri M.Karthikeyan, SPC

## **ORDER**

1. The Applicant filed M.A. No. 162/2018 praying to condone the delay of 13667 days in filing OA No.217 of 2020.

2. In the OA, the Applicant attributed the causes for delay in filing the OA to non-provision of important documents by the Respondents such as AFMSF-16, Medical Treatment details, findings of RMB and failure on the part of the 6<sup>th</sup> Respondent in furnishing Appendix-G to SAO 5.7.78 relating to the claim of due and eligible compensation under Army Group Insurance Scheme.

2. The Applicant submits that he was enrolled in the Indian Army on 14.02.1964 and invalided out from service on 23.11.1982 under Army Rule 13(3) III (v) read in conjunction with Sub-Rule 2A inserted by SRO 126 of 12 March 1964 – Discharged being placed in Medical Category lower than AYE and not upto the prescribed military physical standard, after serving 18 years, 9 months and 10 days. The Applicant further submits that he was granted service element of the disability pension and his claim for disability pension was rejected by CDA (P) Allahabad on the ground the Invaliding Disease was neither attributable to nor aggravated by Military Service. The Applicant submits that the 4<sup>th</sup> Respondent by letter dated 17.3.1983 intimated the rejection of applicant's claim by CDA(P) and as per their advice, the Applicant preferred first appeal within six months i.e. on 9.5.1983. The 4<sup>th</sup> Respondent, by letter dated 20.10.1984 intimated the Applicant that the Appeal is under consideration of GoI, MoD, New Delhi, but, the Applicant has not received any reply for several years. On behalf of the Applicant, Madurai District Ex-services League sent a letter dated 27.7.2016 to 4<sup>th</sup> Respondent in this regard. The League once again sent a letter on 18.8.2016 requesting to consider the Applicant's claim.

The 4<sup>th</sup> Respondent by letter dated 6.10.2016 wrote to ADGPS, AG's Branch IHQ of MoD (Army) for further action. After two years, Madurai District Ex-service League sent e-mail to 4<sup>th</sup> Respondent against which the 4<sup>th</sup> Respondent on 16.8.2018 replied to the League marking a copy to the Applicant stating "as per GoI, MoD Lr.No.1(3)2008/D(Pen/Pol) dated 17<sup>th</sup> May 2016 no appeal cases more than 5 years will be allowed/submitted to IHQ, MoD (Army) for obtaining Government sanction as such all the previous cases more than 5 years old have been rejected by IHQ MoD (Army) as per ibid policy. In view of the above the Applicant's appeal for grant of disability pension after a gap of 31 years is also in contravention to the existing policy and hence this office is not in a position to process the appeal at the belated stage " The Applicant submits that the delay in deciding the first appeal and finally rejecting disability pension by the Respondents under the shadow of Government orders caused considerable delay in approaching this Tribunal. The Applicant further submits that this Hon'ble Tribunal in several cases condoned the delay in filing the OA for several years granting benefits following the decision of the Hon'ble Supreme Court and prayed to condone the delay of 13667 days in filing the instant OA.

3. We have considered the pleadings of the Applicant and scrutinised the documents placed on record. We are of the considered view that the reasons for the delay in filing the OA after a long time cannot be justified since the Applicant kept silent for 37 years after discharge from service and did not pursue his case. In the light of the principles laid down by Hon'ble Apex Court in the case of C. Jacob Vs. Director of Geology and Mining & Anr., reported in (2008) 10 SCC 115, the stale claim cannot be revived for grant of Pensionary benefits.

4. For the aforesaid reasons, we find that the Applicant has failed to justify the long delay of 13667 days in filing the OA seeking legal remedy and also failed to offer cogent reasons for condoning the delay. We decline to condone the delay. Accordingly, the M.A.No.198 of 2020 is not allowed. Since the delay has not been condoned, the OA automatically becomes infructuous.

5. No order on costs.

**Sd/--  
(RAJENDRA MENON)  
CHAIRPERSON**

**Sd/-  
(BOBBY CHERIAN MATHEWS)  
MEMBER (A)**

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