

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI

O.A.NO.144 OF 2012

THURSDAY, THE 6TH OF DECEMBER, 2012/15th AGRAHAYANA 1934.

CORAM:

HON'BLE MR. JUSTICE SHRI KANT TRIPATHI, MEMBER (J)

HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

APPLICANT:

RAJEEVAN.G,(EX NO.15109075 A HAV 9CLK GD)
OF INDIAN ARMY, AGED 46 YEARS, S/O SRI.GANGADHARAN,
RENJITHY BHAVANAM, EDALKULANGARA PO,
KARUNAGAPPALLY, KOLLAM DIST., KERALA-690 562.

BY ADV. SRI. T.R.JAGADEESH

versus

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI-110011.
2. THE CHIEF OF THE ARMY STAFF,
INTEGRATED HEADQUARTERS (ARMY),
SOUTH BLOCK, NEW DELHI-11001
- 3 THE OFFICER IN CHARGE, RECORDS,
THE ARTILLERY RECORDS,
NASIK ROAD CAMP -422 102.
4. THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS (PENSION),
OFFICE OF THE PCDA (P),
DRAUPADI GARH, ALLAHABAD -211 014.

BY SRI. TOJAN J.VATHIKULAM, CENTRAL GOVT.COUNSEL.

ORDER

Shri Kant Tripathi, Member (J):

Heard Adv.T.R.Jagadeesh for the applicant and Mr.K..M.Jamaludheen for the respondents and perused the record.

2. This is an application filed under Section 14 of the Armed Forces Tribunal Act 2007 for disability element of pension.

3. The applicant joined the Indian Army on 21st November, 1986 and was discharged therefrom on 1st July 2002, on account of being in low permanent medical category (permanent). The counsel for the applicant informed that the applicant is already in receipt of service pension in accordance with the rules.

4. The applicant sustained an injury on 21st June, 1999. Consequently, a court inquiry was held, which found that the applicant was on leave cum posting while he sustained the injury. He was accordingly referred to a Medical Board. It is also significant to mention

that the applicant had sustained the aforesaid injury as the fracture of Tibia Fibula (right). The disability was assessed at 15-19% for life by the Medical Board. The Medical Board further opined that the disability was neither attributable to nor aggravated by the military service.

5. Mr.T.R.Jagadeesh, the learned counsel for the applicant, submitted that the applicant sustained the injury while he was going for a reservation in the Railways as he was required to move to the new posting unit. Therefore, the applicant was on duty.

6. In this case, the applicant, instead of approaching the authorities for grant of the disability pension, filed the O.A. straightway before the Tribunal. He ought to have approached the appropriate authorities before coming to the Tribunal. More so, the disability was assessed at 15-19% for life which is less than 20%, therefore, unless the opinion of the Medical Board is ruled out by any re-assessment or re-survey medical board, the applicant's case for disability pension will have no substance. Therefore, it is proper for the applicant to request for an appeal medical board. The learned counsel further submitted that he was willing to apply for an appeal medical board.

In our view, the applicant may do so on his own and as such, no direction of the Tribunal is necessary. In case any request is made by the applicant for appeal medical board the same may be given due consideration in accordance with the law.

7. With the aforesaid observations, the O.A. is disposed of.

8. There will be no order as to costs.

9. Issue free copy to both sides.

Sd/-	Sd/-
LT. GEN. THOMAS MATHEW,	JUSTICE SHRI KANT TRIPATHI,
MEMBER (A)	MEMBER (J)

SV.

(True copy)