

ARMED FORCES TRIBUNAL REGIONAL BENCH, KOCHI  
O.A.NO. 2 OF 2013  
FRIDAY, THE 4TH DAY OF JANUARY 2013/14TH POUSHA, 1934  
CORAM:  
HON'BLE MR. JUSTICE SHRIKANT TRIPATHI, MEMBER (J)  
HON'BLE LT.GE.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

APPLICANT:

NO.15129494 Y, EX HAV. (MACP NB SUB),  
KRISHNA KUMAR.S., AGED 38 YEARS,  
ARTILLERY, S/O.SREEDHARAN PILLAI,  
SHYAMALA MANDIRAM,  
P.O.MYLAKKADU, VIA.KOTTIYAM,  
DIST.KOLLAM, KERALA, PIN – 691 571.

BY ADV.SRI.RAMESH.C.R.

VERSUS

RESPONDENTS:

1. THE UNION OF INDIA,  
THROUGH THE SECRETARY,  
MINISTRY OF DEFENCE (ARMY),  
SOUTH BLOCK, NEW DELHI – 110 001.
2. THE CHIEF OF ARMY STAFF,  
DHQ.P.O.INTEGRATED HQRS.,  
MINISTRY OF DEFENCE,  
SOUTH BLOCK, NEW DELHI – 110 011.
3. THE DIRECTORATE GENERAL OF ARMED FORCES  
MEDICAL SERVICES, ARMY HEADQUARTERS,  
DHQ P.O., NEW DELHI – 110 011.
- 4.. THE PRINCIPAL CONTROLLER OF DEFENCE  
ACCOUNTS (PENSION), DRAUPADI GHAT,  
ALLAHABAD,UTTARPRADESH – 211 014.

5. THE OFFICER IN CHARGE (RECORDS),  
TOPKHANA ABHILEKH, ARTILLARY RECORDS,  
NASIK ROAD CAMP - 422 102,  
APS, PIN - 900 482.
6. THE MANAGING DIRECTOR,  
ARMY GROUP INSURANCE FUND, AGI BHAWAN,  
RAO TULARAM MARG, POST BAG NO.14,  
VASANT VIHAR, NEW DELHI - 110 057.
7. THE COMMANDANT, MILITARY HOSPITAL,  
DEVIALI, MAHARASHTRA STATE,  
PIN - 900 482 (C/O. 56 APO)

BY ADV.SMT.E.V.MOLY, CENTRAL GOVT. COUNSEL

### O R D E R

Shrikant Tripathi, Member (J):

1. Heard Mr.Ramesh.C.R for the applicant and Smt.E.V.Moly for the respondents and perused the record.
2. The present Original Application has been filed for a direction to the respondents to grant disability benefit to the applicant, to the extent of 60% disability as assessed by the Release Medical Board.
3. The applicant was discharged from the Indian Army

on 31<sup>st</sup> December 2011 and was accordingly placed before the Release Medical Board which opined that the applicant was suffering from 'Spondylo Arthropathy' and assessed the same at 60%. The counsel for the applicant admitted that the claim of the disability pension is still pending with the authorities and the matter has not been finalised till the date.

4. However, the applicant had set up his claim with regard to Army Group Insurance Fund (AGIF) but the Authority dealing with the said Fund observed that the disability of 60% was in excess according to Chapter VII, para 32 of Guide to Medical Officers (Military Pension 2002). Therefore it was forwarded to the President Medical Board, Military Hospital, Deviali for rectification. Accordingly the President Medical Board, Military Hospital, Deviali re-assessed the applicant's disability as 20%. In view of the re-assessment of the percentage of the disability, a sum of

Rs. two lakhs was released in favour of the applicant from the AGIF, New Delhi vide letter dated 3<sup>rd</sup> August 2012 (Annexure A15). Contention of the learned counsel for the applicant is that due to decrease in the percentage of disability from 60% to 20%, the amount payable to the applicant from Army Group Insurance Fund, New Delhi was also reduced to Rs.two lakhs. In case the disability had been treated as 60%, applicant would have got more money from the Insurance Fund.

5. In our view, the Original Application is highly premature. The Record Office had intimated the applicant its decision vide letter dated 31<sup>st</sup> July 2012 (Annexure A14) and even Army Group Insurance Fund Adjutant General's branch informed the applicant accordingly vide letter dated 3<sup>rd</sup> August 2012. The benefit under the Army Group Insurance Fund, New Delhi is one of the disability benefits, therefore, proper course for the applicant was to prefer an

appeal before the appropriate authority against the decision of the concerned authority of the Army Group Insurance Fund. But the applicant, instead of doing so, straight away filed the present O.A which cannot be entertained. In view of the aforesaid the Original Application is dismissed at the stage of admission.

6. There will be no order as to costs.

7. Issue copy of the order to both side.

Sd/-

LT.GEN.THOMAS MATHEW  
MEMBER (A)

Sd/-

JUSTICE SHRIKANT TRIPATHI  
MEMBER (J)

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