AT CHANDIMANDIR

OA 847 of 2022

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Muneesh Kumar Sharma Applicant

(By Gurpreet Singh, Advocate)

Versus

Union of India and others **Respondents**

(By Rahul Verma, CGC through VC)

ORDER

The case pertains to the year 2022. Learned counsel for Union of filing reply. Today's adjournment is India seeks some more time for BUNNLAEGION subject to costs of Rs.25,000/-.

List on 14.05.2024.

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan)

Member (J)

01st Mar, 2024

Member (A)

OA 1032 of 2022

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Lt Col Amitabh Airen (Retd) **Applicant**

(By Roopan Atwal Advocate for Navdeep Singh, Advocate)

Versus

Respondents Union of India and others

(By Harsh Neyol CGC, through VC)

ORDER

The case pertains to the year 2022. Learned counsel for Union of India seeks some more time for filing reply. Today's adjournment is BUNALAES subject to costs of Rs.25,000/-.

List on 15.05.2024.

(Lt Gen (Dr) Ranbir Singh) Member (A)

(Justice Shekher Dhawan)

Member (J)

01st Mar, 2024

OA 1258 of 2022

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Col Lokendra Singh Bisht (Retd) **Applicant**

(By Ajay Sheoran, Advocate)

Versus

Respondents Union of India and others

(By Manisha Garg Sr PC)

ORDER

The case pertains to the year 2022. Learned counsel for Union of filing reply. Today's adjournment is India seeks some more time for subject to costs of Rs.25,000/-.

List on 15.05.2024.

(Lt Gen (Dr) Ranbir Singh) Member (A)

(Justice Shekher Dhawan)

Member (J)

Mar, 2024

OA 1698 of 2022

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Brig Paramjit Singh Gothra Applicant

(Retd)

(By Jai Singh Advocate for Col AK Sharma (Retd), Advocate)

Versus

Union of India and others Respondents

(By AS Thakur Sr PC through VC)

ORDER

Learned counsel for Union of India has taken the plea that the reply is ready for filing. Let the same be filed within a week with a copy advance to the counsel for the applicant.

List for arguments on 15.05.2024.

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan)

Member (J)

Member (A)

)1st Mar, 2024

DK

OA 1783 of 2022

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Col Sunil Sharma Applicant

(By SC Patwa, Advocate through VC)

Versus

Respondents Union of India and others

(By Hiterh Sood, CGC)

ORDER

The case pertains to the year 2022. Learned counsel for Union of filing reply. Today's adjournment is India seeks some more time for subject to costs of Rs.25,000/-.

List on 16.05.2024.

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan)

Member (A) Member (J)

01st Mar, 2024

MA (E) 712 of 2020 in OA 681 of 2014 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Smt Nirmala Devi Applicant

(By Ajay Sheoran, Advocate)

Versus

Respondents Union of India and others

(By Balwinder Kaur, Sr PC)

ORDER

The Union of India has filed affidavit on behalf of respondent No. 4. Learned counsel for the applicant has taken the plea that he will look into the matter and file counter affidavit/application on the next date.

List on 22.05.2024.

(Lt Gen (Dr) Ranbir Singh) Member (A)

(Justice Shekher Dhawan)

Member (J)

01st Mar, 2024

MA (E) 1041 of 2022 in OA 258 of 2016 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Ram Kumar **Applicant**

(By Surinder Sheoran, Advocate)

Versus

Respondents **Union of India & Others**

(By Vikas Sharma Sr PC)

ORDER

Learned counsel for the Union of India has taken the plea that corrigendum PPO in the matter has already been issued on 21st December, 2023.

Learned counsel for the applicant has taken the plea that payment has not been made, as yet. In view of that the Union of India is directed to release the payment in terms of corrigendum PPO within a period of two months failing which the applicant shall be entitled to interest @ 8 % per annum. The application is accordingly, disposed of.

(Lt Gen (Dr) Ranbir Singh) Member (A)

(Justice Shekher Dhawan) Member (J)

01st Mar, 2024

'sp'

MA 464 of 2020 in MA (E) 1264 of 2018 in OA 424 of 2018 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Smt Bhateri Devi Applicant

(By Ajay Sheoran, Advocate)

Versus

Respondents
/C **Union of India and others**

(By Rubinia Sharma, CGC for R.No. 1 to 4 through VC and None for R.No. 5 & 6)

As per last order dated 05.12.2023, notice was required to be issued through Registered Post to respondent No. 5 and 6 for which registered envelop was to be filed by the applicant which has not been filed so far. Learned counsel for the applicant seeks time to file the registered envelop for issuance of notice to respondent No. 5 & 6.

Let needful be done and fresh notices be issued to respondent No. 5 & 6 and another copy be sent through registered post.

List on **21.05.2024**.

(Lt Gen (Dr) Ranbir Singh) Member (A)

(Justice Shekher Dhawan)

Member (J)

01st Mar, 2024

MA (E) 1256 of 2022 in OA 1828 of 2011 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Rajender Singh and other **Applicant**

(By Ajay Sheoran, Advocate)

Versus

Respondents **Union of India & Others**

(By Sandeep Gupta, CGC)

ORDER

Learned counsel for the Union of India has taken the plea that Government Sanction is still awaited and some more time be given.

List on **05.07.2024.**

(Lt Gen (Dr) Ranbir Singh

(Justice Shekher Dhawan)

Member (A) Member (J)

MA (E) 2116 of 2018 in OA 756 of 2014 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Smt Santra Devi Applicant

(By Ajay Sheoran, Advocate)

Versus

Respondents Union of India and others

(By Varsha Gahlawat, Sr PC)

ORDER

Learned counsel for the Union of India has taken the plea that PPO has been issued in this case, in terms of the orders passed by the Tribunal, rendering the present application infructuous. A copy of the PPO be placed on the file of the case.

Disposed of as having been rendered infructuous.

(Lt Gen (Dr) Ranbir Singh) Member (A)

(Justice Shekher Dhawan)

Member (J)

MA (E) 855 of 2020 in OA 346 of 2015 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Smt Bharam Kaur Applicant

(By Ajay Sheoran, Advocate)

Versus

Respondents. Union of India and others

(By AS Thakur, Sr PC)

ORDER

Learned counsel for the Union of India submits that the Government Sanction is still awaited and some more time be given.

List on **05.07.2024.**

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan)

Member (J)

Member (A)

MA (E) 850 of 2020 in OA 2228 of 2017 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Smt Jiwani Applicant

(By Ajay Sheoran, Advocate)

Versus

Respondents Union of India and others

(By Mukesh Kaushik, Sr PC)

ORDER

Learned counsel for the Union of India submits that the Government Sanction is still awaited and some more time be given.

List on **05.07.2024.**

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan)

Member (J)

Member (A)

MA (E) 860 of 2020 in OA 2387 of 2019 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Smt Shankuntla Devi Applicant

(By Ajay Sheoran, Advocate)

Versus

Respondents Union of India and others

(By Rubinia Sharma, Sr PC, through VC)

ORDER

Learned counsel for the Union of India submits that the Government Sanction is still awaited and some more time be given.

List on 15.07.2024.

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan)

Member (A) Member (J)

MA (E) 482 of 2022 in OA 3311 of 2019 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Surendra Singh Applicant

(By Col AK Sharma (Retd), Advocate)

Versus

Respondents. **Union of India & Others**

(By Rajesh Kaul, Sr PC)

ORDER

Learned counsel for the Union of India submits that the Government Sanction is still awaited and some more time be given.

List on 15.07.2024.

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan)

Member (A) Member (J)

OA 2865 of 2019

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Gian Singh Applicant

(By Jai Singh, Advocate, Proxy counsel for Navjot Singh Bhatti, Advocate)

Versus

Union of India and others Respondents

(By Manisha Garg, Sr PC)

ORDER

Learned proxy counsel for applicant made request for short adjournment.

List on 14.08.2024 for arguments.

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan)

Member (A)

Member (J)

01st Mar. 2024

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OA 862 of 2021

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Applicant Surender Singh

(By Jai Singh, Advocate)

Versus

Respondents Union of India and others

(By Neeraj Sharma Sr PC)

ORDER

Learned counsel for Union of India seeks time for arguments.

(Lt Gen (Dr) Ranbir Singh)
(Just
Member (A)

01st Mar, 2024
sby

(Justice Shekher Dhawan)

Member (J)

MA 177 of 2024, MA 1251 of 2022 and OA 895 of 2021 Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Ex MWO Satinder Singh Applicant

(By Ujwal Anand, Advocate through V.C.)

Versus

Respondents **Union of India and others**

(By KK Yogi, CGC)

ORDER

Written reply already filed by Union of India is taken on record.

(Lt Gen (Dr) Ranbir Singh)
Member (A)

01st Mar, 202^A
by

(Justice Shekher Dhawan)

Member (J)

01st Mar, 2024 sby

Friday, the 01st day of Mar, 2024

OA 1278 of 2021

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Amrik Singh Applicant

(By Surinder Sheoran, Advocate)

Versus

Union of India and others

Respondents

(By Rahul Verma, CGC, through VC)

ORDER

During the course of arguments learned counsel for the applicant has restricted his claim only to the disability pension for disability No. (i), i.e. *TRAUMATIC DEAFNESS* (RT) only, the percentage of which has been assessed to be 30% for life and regarded it as *attributable to military service*, whereas he is not claiming disability pension with regard to disability No. (ii) i.e. *GENERALISED SEIZURE*.

2. Applicant, Amrik Singh, has filed the present Original Application under Section 14 of the Armed Forces Tribunal Act, 2007, for grant of disability pension @ 30% with the benefit of rounding off to 50% for life w.e.f. 01.03.2005 and for setting aside the offending part of impugned RMB, dated 28.08.2004 and letter dated 09.05.20005 (Annexures A-2 and A-3) vide which disability element of disability pension claim of the applicant has been rejected.

- 3. The facts in nutshell are that the applicant was enrolled in the Indian Army 24.02.1988 in a fit state of health and discharged from service on 28.02.2005 after rendering more than 17 years qualifying service. During the course of his service, he was found to be suffering from the disease *TRAUMATIC DEAFNESS (RT)* which was assessed @ 30% for life which has been regarded as attributable to military service by the Release Medical Board vide Annexure A-2.
- 4. The Union of India in reply has not disputed the period of employment and even admitted the medical record of the applicant and proceedings of the Medical Board assessing the disability *TRAUMATIC DEAFNESS* (*RT*) @30% for life and attributable to Military Service. The plea taken by Union of India for rejection of disability element of disability pension was that PCDA(P), Allahabad has rejected the claim of disability pension of the applicant, stating the disability as neither attributable to nor aggravated by Military Service and constitutional in nature and not related to service.
- 5. We have heard learned counsel representing the parties on both sides and also gone through the record.
- Learned counsel representing the applicant during the course of arguments has submitted that the PCDA (P) Allahabad vide letter dated 09.05.2005 (Annexure A-3) has illegally rejected his claim for disability element of disability pension by over riding the medical opinion despite the fact that the disability has been assessed attributable to Military Service, vide Annexure A-2.

- The observations made by the Apex Court in Civil Appeal No. 164 of 1993 Ex. Sapper Mohinder Singh Vs. Union of India and others decided on 14.01.1993 are reproduced as under:-
 - "From the above narrated facts and the stand taken by the parties before us, the controversy that falls determination by us in a very narrow compass viz, whether Chief Controller of Defence Accounts (Pensions) has any jurisdiction to sit over the opinion of the experts (Medical Board) while dealing with the case of grant of disability pension, in regard to the percentage of the disability pension, or not. In the present case, it is nowhere stated that the petitioner was subjected to any higher Medical Board before the Chief Controller of Defence Accounts (Pension) decided to decline the disability pension to the petitioner. We are unable to see as to how the accounts branch dealing with the pension can sit over the judgment of the experts in the medical line without making any reference to a detailed or higher Medical Board which can be constituted under the relevant instruction and rules by the Director General of Army Medical Corps."
- The crux of the law laid down in the judgments cited supra is that an authority like Principal Controller of Defence Accounts cannot sit over the expert opinion given by a duly constituted Medical Board. Considering the law laid down by the Hon'ble Supreme Court and also the attending circumstances, the denial of disability element of disability pension is neither legally nor factually sustainable. The applicant, therefore, is entitled for the grant of disability element of disability pension.
- In view of what has been said hereinabove, this application succeeds and the same is accordingly allowed. Consequently, the applicant is held entitled to the grant of disability element of disability pension @ 30% by rounding it off to 50% for life w.e.f. 01.03.2005 as per the law laid down

OA 1278 of 2021, Amrik Singh Vs. UOI &Ors.

.....4.

by the Supreme Court in C.A. No. 418 of 2012, titled Union of India and others Vs. Ram Avtar, decided on 10.12.2014. The due and admissible arrears be calculated and released to the applicant within a period of three months from the date of receipt of certified copy of this order by learned Sr.P.C/OIC Legal Cell, failing which together with interest @ 8% per annum from the date of this order till realization of entire amount.

- 10 Since the applicant has approached this Tribunal after a gap of more than 16 years, the arrears shall be restricted to three years prior to filing of this O.A. i.e. 10.09.2021.
- Pending miscellaneous application(s), if any, will also stand disposed 11 ARL REGIONAL of accordingly.
- 12 No order as to costs.

(Lt Gen (Dr) Ranbir Singh Member (A)

(Justice Shekher Dhawan) Member (J)

01st Mar, 2024

Whether speaking /reasoned : Yes/No Whether reportable : Yes/No

OA 1338 of 2021

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Chandan Singh Applicant

(By Dharampal Gill, Advocate)

Versus

Respondents Union of India and others

(By Satinder Singh, Sr PC)

ORDER

Applicant Ex.Hav Chandan Singh (No.01184467Y) was enrolled in the Army on 19.01.1963 and discharged from service on 01.12.1986 after serving total service of 23 years 10 months 12 days in the Army. He was given service pension, vide PPO is Ann.A-1. At the time of entry into service the petitioner underwent complete medical examination and was found fully medically fit and thereafter from time to time he was also medically examined while in service and also found healthy and fit. As per Release Medical Board of the applicant held on 19.09.1986 he was found suffering from disease "CATRACT BOTH EYES (OPTD) V-67 (366)" which was regarded as neither attributable to nor aggravated to Military Service and not connected with Military service and decree of disablement was assessed @ 30% for TWO Years, vide RSMB report Ann.A-2.

Learned counsel for Union of India as per his reply argued that the 2. applicant instead of availing departmental remedies filed this OA after 35 years of discharge. He was medically examined from time to time and first

OA 1338 of 2021 -2-

time while serving in 104 Air Defence Regiment, the applicant was initially downgraded to low medical category CEE (Temporary) for diagnosis "LENTICULAR OPACITIES (V-67) for a period of six months. On review, he was continued in the same medical category w.e.f. 14.12.1983 for a period of six months. Ultimately, Release Medical Board was conducted on 19.09.1986 where he was found suffering from disease "CATRACT BOTH EYES (OPTD) V-67 (366) and was assessed @ 30% for two years. Therefore the plea taken by Union of India is that the applicant has approached this Tribunal after lapse of 35 years of his discharge, therefore, the present original application is not tenable due to huge delay with no cogent reason for inexplicable delay. As per long roll, the applicant was enrolled in the Army on 19.01.1963 and discharged from service on 01.12.1986

- 3. We have heard the learned counsel for both the parties and perused the record.
- 4. The applicant was enrolled on 19.01.1963 and discharged from service on 01.12.1986 as per discharge certificate. He has approached this Tribunal after a period of about 35 years from the date of his discharge from Indian Army. No plausible reason has been shown by the applicant for filing the present original application after a considerable delay of 35 years. The Hon'ble Supreme Court in Civil Appeal No.6536 of 2021 titled Union of India and Ors. Versus Ex.Sep.R.Munusamy, decided on 19.07.2022, while dealing with same controversy regarding delay and latches held that the claim of applicant for disability pension should not have been entertained and that too, 20 years after his discharge. In this case the applicant has approached this Tribunal after a period of about 35 years from the date of his

OA 1338 of 2021 -3-

discharge from Indian Army. Since the applicant has failed to prove that he had sufficient cause for not filing the original application within the prescribed time, the present original application is dismissed being badly time barred.

- 5. Miscellaneous application (s) pending, if any shall also stand disposed of.
- 6. No order so as to costs.

(Lt Gen (Dr) Ranbir Singh) Member (A)

(Justice Shekher Dhawan) Member (J)

01st Mar, 2024

ARMIED FORCES TRIBUNAL Whether speaking/reasoned <

OA 443 of 2022

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Respondents

V.C.)

ORDER

.ed on behalf of applicant.

. on 14.08.2024 for arguments.

(Lt Gen (Dr) Ranbir Singh)

Member (A)

1st Mar, 2024

OA 1122 of 2022

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Rajinder Pal Singh Applicant

(By Jai Singh, Advocate)

Versus

Respondents **Union of India and others**

(By Satyawan Ahlawat, Sr PC)

ORDER

On joint request of both the counsel of the parties, case is adjourned to (Lt Gen (Dr) Ranbir Singh)
Member (A)

01st Mar, 202

(Justice Shekher Dhawan)

Member (J)

OA 1196 of 2022

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Baldev Singh Applicant

(By Jasleen Kaur, Adv. Proxy counsel for Bhim Sen Sehgal, Advocate)

Versus

Union of India and others Respondent

(By Parikshit Singh, CGC through V.C.)

ORDER

On request of proxy counsel for applicant, case is adjourned for next date.

List on 14.08.2024.

(Lt Gen (Dr) Ranbir Singh)

(Justice Shekher Dhawan) Member (J)

Member (A)

01st Mar. 2024

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OA 1982 of 2023

Friday, the 01st day of Mar, 2024

CORAM:

HON'BLE MR JUSTICE SHEKHER DHAWAN, MEMBER (J) HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Applicant Swaran Singh

(By Ujwal Anand, Advocate through V.C.)

Versus

Respondents Union of India and others

(By Amit Bhanot, CGC)

ORDER

Learned counsel for Union of India seeks more time to file reply.

(Lt Gen (Dr) Ranbir Singh)
(Just
Member (A)

01st Mar, 2024
sby

(Justice Shekher Dhawan)

Member (J)