

**ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI**

OA-01/2023

No. 15632971 H Ex-Rect
Pranab Tarang
S/O – Sri Baneswar Tarang
Vill- Namgaon Khat Tetelia
P.O- Gandhinagar, Teh- Sonapur
Dist- Kamrup (M), Assam
PIN- 782403.

..... Applicant
By legal practitioners for Applicant
AR Tahbildar

-Versus-

1. Union of India,
Represented its Defence Secretary,
Ministry of Defence,
Sena bhawan, New Delhi - 1
2. The Officer-in-Charge
Records, Brigade of the Guards
C/O – 56 APO
3. The Additional Directorate General,
Personnel services, PS-4(d),
Adjutant General's Branch
IHQ of MOD(Army), P.O – New Delhi.
4. The Principle Chief of Defence
Accounts (Pension), Draupadi Ghat
Allahabad – 211014

..... **Respondents**
By legal practitioner for Respondents
Dipanjali Bora, CGSC

CORAM :

HON'BLE MR. JUSTICE SHAILENDRA SHUKLA, MEMBER (J)
HON'BLE LT GEN P GOPALAKRISHNA MENON, MEMBER (A)

ORDER (ORAL)

03.10.2024

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(Shailendra Shukla, J)

1. The applicant has filed the present OA under section 14 & 15 of the Armed Forces Tribunal Act, 2007 seeking invalid pension along with arrears thereto.
2. The facts of the case, shorn of details, are the applicant was enrolled as a soldier in the Indian Army on 01.10.2020. During the training he was diagnosed with disease of "Microcytic Hypochromic Anemia (HB-E Heterozygous)". The Invalidate the Medical Board held on 29.09.2021 in the Military Hospital, Kamptee, and after due examination the disability was assessed @ 10% and he was placed in Low Medical Category P5 and was recommended for invalidation from service by the Board. Consequently, he was invalidated from service on 30.11.2021 in Permanent Low Medical Category under Army Rule 13(3) having being found unfit for the service. He served for 01 year 02 months in the Army. He was granted invalid gratuity but neither disability pension nor invalid

pension was granted to him. The respondent authorities have categorically admitted that the applicant was eligible for invalid pension but inspite of which the PCDA(P), Allahabad has not paid the same to him. The applicant submits that as per Govt. of India, Ministry of Defence letter No. 12(06)/2019/D (Pen/Pol) dtd 16.07.2020 he is entitled to invalid pension for life. On this ground, the relief has been sought for in this application.

3. The learned counsel for the applicant has pointed out that the Annexure 'E' letter No. 12(06)/2019/D(Pen/Pol) dtd 16.07.2020 issued by the Ministry of Defence, Department of Ex-servicemen Welfare D(Pension/Policy) in which it has been stated that invalid pension would henceforth will also be admissible to Armed Forces Personnel with less than 10 years of qualifying service in which personnel are invalided out of service on account of any bodily or mental infirmity which is neither attributable to nor aggravated by military service which permanently incapacitates them from military service as well as civil employment.

4. Per contra the respondents have submitted that the onset of the disability was in peace station and considering the genetic nature of the medical condition, disability is coincided as neither

attributable to nor aggregated by military service and no impropriety has been committed in denying him the invalid pension.

5. We have considered the submissions advance by both the learned counsel for the parties.

6. The moot question for determination is whether the applicant has been wrongly denied the invalid pension.

7. The impugned order dtd 19.04.2022 is placed at Annexure 'C1' in which the applicant has been released from service in Low Medical Category for the diagnosis of "Microcytic Hypochromic Anemia (HB-E Heterozygous)" and hence unfit for further employment in civil requiring high physical fitness.

8. The applicant's case lies squarely within the policy framed for invalid pension to Armed Forces Personnel before completion of 10 years of qualifying service (Annexure 'E').

9. This policy letter is dated 16.07.2020 and the relevant part of the same is para 2 which is being reproduced as under :-

"2. The proposal to extend the provisions of Department of Pension & Pensioners' Welfare O.M. No. 21/01/2016-P&PW(F) dated 12.02.2013 to Armed Forces Personnel has

been under consideration of this Ministry. The undersigned is directed to state that Invalid Pension would henceforth also be admissible to Armed Forces Personnel with less than 10 years of qualifying service in cases where personnel are invalided out of service on account of any bodily or mental infirmity which is Neither Attributable to Nor Aggravated by Military Service and which permanently incapacities them from military service as well as civil reemployment."

10. Annexure 'C' is the decision of the Competent Authority regarding grant of invalid pension to the applicant. The relevant part of the same is as follows :-

"2. The individual was invalided out from service on 30 Nov 2021 (AN) in med cat S1H1A1P3(P)E1 under Rule 13(3) Item IV of Army Rule 1954 having been found medically unfit for further service. He is not entitled for disability element in terms of Para 81 of Pension Regulations for the Army, Part-I (2008), and Para 66(c) of Pension Regulations for the Army, Part-II (2008). However, he is entitled for Invalid Pension for life w.e.f. 01 Dec, 2021 in terms of Govt. of India, Min of Def letter No. 12(06)/2019/D(Pen/Pol) dated 18 Jul 2020."

11. In view of the above documents, the applicant is found to be entitled to grant of invalid pension.

12. Original Application No. 1/2023, thus, stands **allowed** in the following terms:

The applicant shall be granted invalid pension. He is also entitled to arrear for invalid pension from 30.11.2021. The arrear shall be paid within a period of four (4) months from the date of receipt of the copy of this order failing which respondent shall pay interest @ 8% per annum.

13. There will be no order as to costs.

(Lt. Gen. P. Gopalakrishna Menon)
Member (A)

(Justice Shailendra Shukla)
Member (J)

Mc/gm