

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

R.A. No. 7/ 2016
(Arising out of O.A. No. 91/2014)
With
M.A. No. 170/2014

FRIDAY, THE 18th MAY, 2018.

CORAM :HON'BLE DR.(MRS.) JUSTICE INDIRA SHAH, MEMBER (J)
HON'BLE LT GEN GAUTAM MOORTHY, MEMBER (A)

Ex-Rect Sanjib Das
Village Kayadanga
P.O. Kalyangarh
Dist. 24 Parganas (North)
West Bengal-743272

..... Applicant

By Adv. Mr. S. K. Choudhury

Versus

1. Union of India, Through
Secretary, Ministry of Defence
South Block, D.H.Q P.O.
New Delhi-110011
2. The Chief of Army Staff
Integrated HQ of MOD (Army)
South Block, D.H.Q P.O.
New Delhi-110011
3. The Secretary
Department of Ex-Servicemen Welfare & Pension
Ministry of Defence, South Block
New Delhi-110011
4. The Officer In Charge
The Signals Records
Post Bag No. -5
Jabalpur (MP)
5. Principal Controller of Defence Accounts (Pensions)
Draupadi Ghat
Allahabad - 211014

Respondents.

By Adv. Mr. Ajay Chaubey

ORDER

Justice Indira Shah, Member (J)

1. By filing this application under section 14(4)(f) of the Armed Forces Tribunal Act, 2007, the applicant has sought for review of the order dated 27.9.2016 passed in M.A. 170/2014 along with O.A. No. 91/2014 by this Tribunal.
2. Heard Mr. S.K. Choudhury, learned counsel for the applicant and Mr. Ajay Chaubey, learned counsel for the respondents.
3. The applicant who was enrolled in service in the year 1984, and while undergoing basic military training was invalidated out of service being diagnosed with disease of "Anxiety Neurosis". His appeal against disability pension was rejected vide order dated 29.12.1988. After the lapse of 30 years he approached the Tribunal by filing Misc. Application along with Original Application. The MA along with OA filed by the applicant was dismissed.
4. Mr. Choudhury, learned counsel for the applicant submitted that there are errors apparent on the face of the record. According to him, in the course of adjudication of the matter a dispute arose – whether the younger sister of the applicant had died in the year 1984. Accordingly this Tribunal vide order dated 3.2.2016 directed the Registry to send relevant papers to the Zila Sainik Board, North 24-Parganas with a request to get the fact investigated and submit their report within a period of one month. The respondents were also directed to produce the enrolment form of the applicant by virtue of the same order. In the impugned order there is no mention of the result of the investigation by Zila Sainik Board. Furthermore the case has been decided without perusal of the Enrolment Form and Sheet Roll of the applicant wherein correct details of brothers and sister of the applicant were available.
5. Counsel for the applicant relying on the cases of Union of India & Others vs. Tarseem Singh reported in (2008)8 SCC 648; Ex.Sep. Trilochan vs. Union of India (Delhi High Court) in WP(C) No. 1783/2012; Civil Appeal No. 2904 of 2011 SC (Union of India vs. Rajbir Singh) has made averments in paragraphs 12, 13, 14, 15, 16, 17 and 18 which are reproduced as below:

2.

*"12. That as per Para 81 of Pension Regulations for the Army, 2008 **"There shall be no condition of minimum qualifying service for earning service element"**.*

13. That the applicant was enrolled on 06 Jun 1984, had completed 6 months basic military training successfully and that the applicant was diagnosed with the disease of "Anxiety Neurosis" while the applicant was undergoing technical training, thus it is clearly evident that disease was caused to the applicant due to stress and strain of rigorous military training.

14. That the applicant was invalided out service after having completed 360 days of service.

15. That no note of the disease was made at the time of petitioner's enrolment.

16. That medical authorities did not record in the IMB dated 10 May 1985 that the disease could not have been detected during the detailed medical examination prior to enrolment.

17. That the opinion of the doctor in the IMB is unsigned and thus lacks validity in the eyes of law.

*18. That as per Para 5 of Pension Regulations for the Army, 2008 **"Kinds of Pensionary awards- includes Disability Pension"**.*

6. Although this Tribunal vide order dated 3.2.2016 directed the Zila Sainik Board to investigate whether the applicant's sister died in the year 1984; the application of applicant was not dismissed on that count. Therefore we do not find any error apparent on the face of the record.

7. Other grounds set forth in review application may be grounds for appeal/revision. We are not supposed to rewrite the judgment/order reversing the original.

8. In view of above, the application for review is dismissed hereby.

9. Let a plain copy of this order, duly countersigned by the Tribunal Officer, be supplied to the parties upon compliance of requisite formalities.

(LT GEN GAUTAM MOORTHY)
MEMBER(ADMINISTRATIVE)

(JUSTICE INDIRA SHAH)
MEMBER (JUDICIAL)