

FORM NO – 4

(SEE RULE 11 (1))

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

APPLICATION No : T A 52 of 2011

APPLICANT (S)

Krishan Dev Thakur

RESPONDENT (S)

Union of India & 4 Ors

Legal Practitioner of applicant

Legal Practitioner for Respondent (s)

Mr. Ajay Debnath

Mr. Mintu Kumar Goswami

NOTES OF THE REGISTRY	<u>ORDERS OF THE TRIBUNAL</u> <u>Order Sl. No. : 1.)</u> <u>Dated : 19.06.2013</u>
	<p>Mr. Ajay Debnath, Id. adv. appears for the applicant. Mr. Mintu Kr. Goswami, Id. adv. for the respondents is present. The TA is taken up for hearing.</p> <p>We have heard Mr. Debnath at length for more than one hour. However, we observe that this is a matter relating to claim for disability pension. In the ibid case, the applicant was invalidated out of service after approximately 8 years of service for suffering from "Schizophrenia" and in the opinion of the Invalidating Medical Board, the ibid disease was neither attributable nor aggravated due to military service. The percentage of disability was assessed at 40% by the said Medical Board. Such opinion of the IMB is confirmed from the original medical documents that were submitted by the respondents. The Id. adv. for the applicant had inspected these documents in December 2012. However, he again inspected these documents on this day in open court.</p> <p>The case hinges mainly on two aspects, viz. –</p> <p>i) Is the medical board proceeding and the opinion of the experts therein to be considered as appropriate or otherwise?</p>

On this aspect, the Id. adv. for the applicant could not make any point challenging the ibid medical board proceedings.

li) The second aspect on which the case hinges is that the award of attributability or aggravation of the disease as opined by the IMB remains, valid unless it is challenged by the applicant with rational reasons and relevant law points. Even in this regard the applicant and his counsel have not been able to make any headway to challenge this aspect of the opinion of the ibid IMB proceedings.

These two aspects being very vital, Mr. Debnath, Id. adv. for the applicant prays for an adjournment to argue only on these issues along with important case laws to prove the point that the ibid IMB proceeding and the opinion of the experts consisting the Board that the disease being non-attributable and non-aggravated by military service is in question.

Ld. adv. for the applicant may make submissions on these two points only on the next date since all other aspects have been elaborately argued by him today. He is also at liberty to submit written notes of argument on the next date.

Under such circumstances, let the matter be adjourned for hearing till 16.7.13 when it will be listed as part-heard.

Let a plain copy of this order duly countersigned by the Tribunal Officer be furnished to both sides.

(LT. GEN K.P.D.SAMANTA)
MEMBER(A)

(JUSTICE RAGHUNATH RAY)
MEMBER(J)