

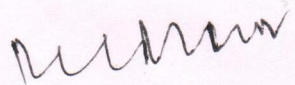
Deptt. of Ex-Servicemen Welfare
D (Pension/Legal)

Subject:- Pending appeals against orders of disability pension/benefits and implementation of Committee of Experts Report on reducing litigation and grievance redressal – by Shri Rajeev Chandrasekhar, Member of Parliament.

Reference Raksha Mantri office Dy No. 4095-VIP dated 06.07.2017.

2. RM office has forwarded a D.O. letter dated 05.07.2017 received from Shri Rajeev Chandrasekhar, Member of Parliament on the subject mentioned above addressed to Hon'ble Minister of Defence Shri Arun Jaitley.
3. The issues raised by Hon'ble MP concern D(CMU), D(Pen/Legal) & D(Pen/Policy). As regards D(Pen/Legal) the status is that D(Pen/Legal) has issued a letter No 4(17)2015/D(Pen/Legal) dated 29.06.2017 for implementation of orders of Hon'ble Courts/AFTs in Neither Attributable to Nor Aggravated (NANA) by service cases. Presently, there is no proposal to withdraw pending appeals in Hon'ble Supreme Court. It is considered view of the Government of India to await the orders of the Hon'ble Supreme Court in the Civil Appeals filed in NANA cases.
4. Accordingly, D(CMU) may suitably incorporate the factual position mentioned above and further they may like to coordinate with D(Pen/Policy) with regard to para 6(c) of Hon'ble MP's D.O. letter under reference.

Encl :- As Above.



(R. K. ARORA)

Under Secretary to the Govt of India

Tel:- 23015021

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D(CMU)

D(Pen/Policy)

MoD ID No. 2(13)2017/D (Pen/Legal) dated 25.07.2017

Copy to:-

1. ✓ Shri Rajeev Chadrasekhar,
Member of Parliament (Rajya Sabha)
211, North Avenue,
New Delhi – 110001.

(16)

F.No. 4(17)2015/D (Pen/Legal)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare
D (Pension/Legal)

Sena Bhawan, New Delhi
Dated 29th June, 2017

To

The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of the Air Staff

Subject: - Implementation of orders of Hon'ble Courts/AFTs in Neither Attributable to Nor Aggravated (NANA) by service cases

The Hon'ble Supreme Court in its order dated 02.07.2013 in Civil Appeal No. 4949/2013 filed by Dharamvir Singh Vs Union of India & Ors. held the following:-

- I. The question whether a disability is attributable or aggravated by military service is to be determined under "Entitlement Rules for Casualty Pensionary Awards, 1982".
 - II. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service.
 - III. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has laid to an individual's discharge or death will be deemed to have arisen in the service.
 - IV. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the medical board is required to state the reasons.
2. In view of the above judgment of Hon'ble Supreme Court, matter for implementation of orders of Hon'ble Courts/AFTs in respect of Armed Forces Personnel in NANA cases was taken up with Department of Expenditure, Ministry of Finance for consideration. Deptt. of Expenditure has agreed to implement those orders of Hon'ble Courts/AFTs where all legal remedies have been exhausted. In cases where appeals are pending or could be filed, the legal remedies may be exhausted and thereafter, if the appeals are dismissed, the Court/AFT orders may be implemented.
3. Accordingly, I am directed to convey the approval of Competent Authority in Ministry of Defence for implementation of orders of Hon'ble Courts/AFTs in Neither Attributable to Nor Aggravated (NANA) by service cases as under:-
- a. Service Hqrs. may await the orders of Hon'ble Apex Court in those NANA cases in which SLPs/Civil Appeals have already been filed. In case Civil Appeals are dismissed, Service Hqrs. may issue absolute sanction at their level with the approval of competent authority.
 - b. Service Hqrs. may implement the orders of Hon'ble Courts/AFTs in NANA cases by issuing absolute sanction keeping in view the order dated 02.07.2013 of Hon'ble Apex Court in Dharamvir Singh's case (Civil Appeal No. 4949/2013).

