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IMMEDIATE

No.1(1)/81/Pen-C,
Government of India,
Ministry of Defence,
New Delhi, the 22nd November, 1983.

To

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

Subject:- Entitlement Rules to Casualty Pensionary Awards
to the Armed Forces Personnel, 1982.
.....

Sir,

I am directed to say that the president is pleased to decide that with effect from 1st January 1982 and in supersession of all previous orders on the subject, the entitlement rules set out in Appendix to this letter shall apply in cases of disablement or death of service personnel who became non-effective on or after 1st January, 1982.

2. This issues with the concurrence of Ministry of Defence (Finance Division) vide their u.o. No.648/DFA(AG) of 1983.

Yours faithfully,



(K. SRINIVASAN)

Joint Secretary to the Government of India

Copy of the above is forwarded to:-

Financial Adviser, Ministry of Defence (Finance Division)

The Controller of Defence Accounts (Pens), Allahabad.

The Controller General of Defence Accounts.

The Director of Audit, Defence Services, New Delhi.

The Director General Armed Forces Medical Services,
New Delhi.
Etc.

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Appendix to Ministry of Defence letter
No.1(1)/81/Pen-C, dated 22.11.1983.

ENTITLEMENT RULES FOR CASUALTY PENSIONARY AWARDS, 1982

1. The Entitlement Rules set out below apply to Service personnel who become non-effective on or after 1st January 1982. The cases arising on or after 1st January 1982 may be considered under these rules provided that such a case is still outstanding on the date of issue of these rules. For the purpose of defining whether a case will be treated as outstanding or not, it may be clarified that where such a case has already been decided even at the initial stage, the same will be treated as having been decided. Such cases will not be reopened. These rules shall be read in conjunction with the Guide to Medical Officers (Military Pensions) 1980; as amended.
2. Pending decision on a general case to give pay and allowances to probationary nurses and cadets undergoing training at NDA/IMA and other pre-commission and probationary commission training institutions/academies of the Defence Services, they will continue to be governed under the existing instructions for casualty pensionary awards.
3. These rules do not apply in cases where disablement or death, on which the claim to casualty pensionary awards is based, took place (a) during the period 3rd September 1939 to 31st March 1948, which will be dealt with in accordance with the entitlement criteria laid down in Annexure-I and (b) during post-1948 period of emergency which will be dealt with in accordance with Annexure-II to these rules.
4. Invalidating from service is a necessary condition for grant of a disability pension. An individual who, at the time of his release under the Release Regulations, is in a lower medical category than that in which he was recruited will be

treated as invalidated from service. JCO/OR and equivalents in other services who are placed permanently in a medical category other than 'A' and are discharged because no alternative employment suitable to their low medical category can be provided, as well as those who having been retained in alternative employment but are discharged before the completion of their engagement will be deemed to have been invalidated out of service.

5. The approach to the question of entitlement to casualty pensionary awards and evaluation of disabilities shall be based on the following presumptions:-

Prior to and during service

(a) A member is presumed to have been in sound physical and mental condition upon entering service except as to physical disabilities noted or recorded at the time of entrance.

(b) In the event of his subsequently being discharged from service on medical grounds any deterioration in his health which has taken place is due to service.

6. Disablement or death shall be accepted as due to military service provided it is certified by appropriate medical authority that :-

(a) the disablement is due to a wound, injury or disease which -

(i) is attributable to military service, or

(ii) existed before or arose during military service and has been and remains aggravated thereby.

This will also include the precipitating/

- hastening of the onset of a disability.

(b) The death was due to or hastened by -

(i) a wound, injury or disease which was attributable to military service; or

(ii) the aggravation by military service of a wound injury or disease which existed before or arose during military service.

7. Where there is no note in contemporary official records of a material fact on which the claim is based, other reliable corroborative evidence of that fact may be accepted.

8. Attributability/aggravation shall be conceded if causal connection between death/disablement and military service is certified by appropriate medical authority.

Onus of proof

9. The claimant shall not be called upon to prove the conditions of entitlement. He/she will receive the benefit of any reasonable doubt. This benefit will be given more liberally to the claimants in field/afloat service cases.

Post Discharge Claims

10. Cases in which a disease did not actually lead to the member's discharge from service but arose within 10 years thereafter, may be recognised as attributable to service if it can be established medically that the disability is a delayed manifestation of a pathological process set in motion by service conditions obtaining prior to discharge and that if the disability had been manifest at the time of discharge the individual would have been invalided out of service on this account.

11. In cases where an individual in receipt of a disability pension dies at home and it cannot from a strictly medical point

of view, be definitely established that the death was due to the disablement in respect of which the disability pension was granted :-

- (a) the benefit of doubt in determining attributability should go to the family of the deceased, if death occurs within 10 years from the date of his invalidment from service unless there are other factors adversely affecting the claim; and
- (b) if death takes place more than 10 years after the date of man's invalidment from service, the benefit of doubt will go to the State.

Duty

12. A person subject to the disciplinary code of the Armed Forces is on "duty" :-

- (a) When performing an official task or a task, failure to do which would constitute an offence, triable under the disciplinary code applicable to him.
- (b) When moving from one place of duty to another place of duty irrespective of the mode of movement.
- (c) During the period of participation in recreation and other unit activities organised or permitted by Service Authorities and during the period of travelling in a body or singly by a prescribed or organised route.

Note: 1

- (a) Personnel of the Armed Forces participating in
 - (i) local/national/international sports tournaments as member of service teams, or

(ii) mountaineering expeditions/gliding organised by service authorities, with the approval of Service Hqrs., will be deemed to be 'on duty' for purposes of these rules.

(b) Personnel of the Armed Forces participating in the above-named sports tournaments or in privately organised mountaineering expeditions or indulging in gliding as a hobby in their individual capacity, will not be deemed to be 'on duty' for purposes of these rules, even though prior permission of the competent service authorities may have been obtained by them.

(c) Injuries sustained by personnel of the Armed Forces in impromptu games and sports outside parade hours, which are organised by, or with the approval of, the local Service authority, and death or disability arising from such injuries, will continue to be regarded as having occurred while 'on duty' for purposes of these rules.

Note: 2

The personnel of the Armed Forces deputed for training at courses conducted by the Himalayan Mountaineering Institute, Darjeeling shall be treated on par with personnel attending other authorised professional courses or exercises for the Defence Services for the purpose of the grant of disability/ family pensions on account of disability/death sustained during the courses.

(d) When proceeding from his duty station to his leave station or returning to duty from his leave station, provided entitled to travel at public expense i.e. on railway warrant, on concessional voucher, on cash TA (irrespective of whether

railway warrant/cash TA is admitted for the whole journey or for a portion only), in Government transport or when road mileage is paid/payable for the journey.

(e) When journeying by a reasonable route from one's quarter to and back from the appointed place of duty, under organised arrangements or by private conveyance when a person is entitled to use of service transport but that transport is not available.

(f) An accident which occurs when a man is not strictly 'on duty' as defined may also be attributable to service, provided that it involved risk which was definitely enhanced in kind or degree by the nature, conditions, obligations or incidents of his service and that the same was not a risk common to human existence in modern conditions in India. Thus for instance, where a person is killed or injured by another party by reason of belonging to the Armed Forces, he shall be deemed 'on duty' at the relevant time. This benefit will be given more liberally to the claimant in cases occurring on active service as defined in the Army/Navy/Air Force Act.

Injuries

13. In respect of accidents or injuries, the following rules shall be observed:-

(a) Injuries sustained when the man is "on duty" as defined, shall be deemed to have resulted from military service, but in cases of injuries due to serious negligence/misconduct the question of reducing the disability pension will be considered.

- (b) In cases of self-inflicted injuries whilst on duty, attributability shall not be conceded unless it is established that service factors were responsible for such action; in cases where attributability is conceded, the question of grant of disability pension at full or at reduced rate will be considered.

Diseases

14. In respect of diseases, the following rule will be observed :-

- (a) Cases in which it is established that conditions of Military Service did not determine or contribute to the onset of the disease but influenced the subsequent courses of the disease, will fall for acceptance on the basis of aggravation.
- (b) A disease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in service, if no note of it was made at the time of the individual's acceptance for military service. However, if medical opinion holds, for reasons to be stated, that the disease could not have been detected on medical examination prior to acceptance

for service, the disease will not be deemed to have arisen during service.

- (c) If a disease is accepted as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service.

15. The onset and progress of some diseases are affected by environmental factors related to service conditions, dietic compulsions, exposure to noise, physical and mental stress and strain. Disease due to infection arising in service, will merit an entitlement of attributability. Nevertheless, attention must be given to the possibility of pre-service history of such conditions which, if approved, could rule out entitlement of attributability but would require consideration regarding aggravation. For clinical description of common diseases reference shall be made to the Guide to Medical Officers (Military Pensions) 1929, as amended from time to time. The classification of diseases affected by environmental factors in service is given in Annexure-III to these rules.

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Communicable diseases and diseases due to infection

16. Death or disablement resulting from such diseases other than venereal diseases contracted during service shall be regarded as attributable to military service. Where the disease may have been contracted prior to enrolment or during leave, the question of determining the incubation period in a particular case will arise and an opinion on this point should be expressed.

Miscellaneous Rules

17. Medical Opinion: At initial claim stage, medical views on entitlement and assessment are given by the IMB/RMB. Normally, these views shall prevail for decisions in accepting or rejecting the claim. In cases of doubt the Ministry/CDA(Pensions) may refer such cases for second medical opinion to MA(Pensions) Sections in the Office of the DGAFMS/Office of CDA(P), Allahabad, respectively. At appeal stage, appropriate appellate medical authorities can review and revise the opinion of the medical boards on entitlement and assessment.

18. Predisposition: "Predisposition" of "inherent constitutional tendency" in itself is not a disease. And if there is a precipitating or causative factor in service which produces the disease, then it is attributable to service, notwithstanding the inherent disposition.

19. Aggravation: If it is established that the disability was not caused by service, attributability shall not be conceded. However, aggravation by service is to be accepted unless any worsening in his condition was not due to his service or worsening did not persist on the date of discharge/claim.

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20. Conditions of unknown aetiology: There are a number of medical conditions which are of unknown aetiology. In dealing with such conditions, the following guiding principles are laid down :-

- (a) If nothing at all is known about the cause of the disease, and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded.
- (b) If the disease is one which arises and progresses independently of service environmental factors than the claim may be rejected.

Delay in diagnosis/adverse effects of treatment

21. The question as to whether, through the exigencies of service, the diagnosis and/or treatment of the wound, injury or disease was delayed, faulty or otherwise unsatisfactory, including the adverse/unforeseen effects of treatment, shall also be considered. The entitlement for any ill-effects arising as a complication from such factors shall be conceded as attributable.

Assessment

22. Assessment of degree of disability is entirely a matter of medical judgement and is the responsibility of the medical authorities.

The degree of disablement due to service/duty of a member of the military forces shall be assessed by making a comparison between the condition of the member as so disabled and the condition of a normal healthy person of same age and sex, without taking into account the earning capacity of the member

in his disabled condition in his own or any other specific trade or occupation, and without taking into account the effects of any individual factor or extraneous circumstances.

Where disablement is due to more than one disability a composite assessment of the degree of disablement shall also be made by reference to the combined effect of all such disabilities in addition to separate assessment for each disability.

In other than paired organs, conditions may co-exist which through interaction may give rise to the need for consideration under the greater disablement principle. One of the simplest examples is, the pensioner with entitlement for bronchitis who also suffers from coronary atherosclerosis and as a consequence of acute bouts of coughing claims increasing frequency of attacks of angina. In such cases it is a matter of clinical judgement as to the extent to which the assessment for bronchitis should be increased to cover the greater disablement arising from the interaction between that condition and the coronary atherosclerosis. The pensioner is not entitled to the total assessment of disablement for the coronary atherosclerosis which might well be in the regions of 30 to 40%, but only to that portion of that assessment which it is reasonable to add to cover greater disablement. Depending on the increased frequency in the attacks of angina due to severe bouts of coughing a greater disablement addition in the less than 20% range might well be appropriate.

(a) The assessment of a disability is the estimate of the degree of disablement it causes, which can properly be ascribed to service as defined below.

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(b) The disablement properly referable to service will be assessed as under:-

(i) At the time of discharge from the forces:

Normally, the whole of the disablement then caused by the disability. This will apply irrespective of whether the disability is actually attributable to service, or is merely aggravated thereby.

(ii) On resurvey of disability after discharge from service:

The whole of the disablement then caused by the disability, less the following:-

- (1) The part due to non-service factors, such as individual's habits, occupation in civil life, accident after discharge, climatic environment after discharge;
- (2) Any worsening due to the natural progress of the disability since discharge, apart from the effect of service.

Note: Deduction (1) will be made in all cases; while deduction (2) will apply only in cases where the disability is accepted as aggravated by, but not attributable to, service.

Appeals

23. Right of Appeal: Where entitlement is denied by the Pension Sanctioning Authority on initial consideration of the claim, the claimant has a right of appeal against decision on entitlement and assessment. Whereas for decisions on entitlement all concerned authorities have to give opinions,

assessment of degree of disablement is entirely a matter of medical judgement and is the responsibility of appropriate medical authority.

24. Detailed procedure to be followed for appeals shall be issued by Ministry of Defence from time to time. However, to avoid inordinate delay in taking final decisions on the disability/family pensionary claims, suitable time limits at each stage of the claim shall be laid down.

Appellate Bodies

25 (a) Defence Minister's Appellate Committee on Pensions shall DMACP deal with second or the final appeal on claim for casualty pensionary awards. This Committee consists of -

Chairman	RM/RRM
Members	URM
	Chiefs of Staff (Army, Navy & Air Force)
	Defence Secretary
	Financial Adviser (DS)
	DGAFMS
	JAG(Three Services)

(b) Appellate Committee for First Appeals

ACFA shall deal with claims for casualty pensionary awards on first appeals. This Committee consists of :

Chairman	DS(Pensions), Ministry of Defence dealing with pension cases.
Members	Director Personal Services, Army HQ. and his counterparts in Naval and Air HQ. dealing with pension cases.
	Deputy Director General (Pensions) of Office of DGAFMS.
	Deputy Financial Adviser (Pensions).

Decision of Appellate Committee for First Appeals

26. After consideration of all relevant issues involved in a case, the appellate body shall give decision of upholding or rejecting the appeal by consensus.

Functions and Responsibilities

27. (a) Service HQ - Appropriate Service Authority shall be responsible for giving their views on matters relating to relevant service factors.
- (b) Judge Advocate General (JAG) - He shall be responsible for giving opinion on legal matters.
- (c) Medical Authority - Assessment of disablement and entitlement in case of disabilities other than injuries are purely medical issues. Views on such medical issues shall be given by the appropriate medical authorities as under:-
- (i) Medical Boards shall give findings and recommendations on entitlement and assessment in case of all disabilities. They are, however, not statutory bodies and their recommendations can be reviewed and revised by the medical authorities viz. DGAFMS.
- (ii) DDG(Pensions), Office of the DGAFMS shall be the medical authority dealing with medical issues at first appeal stage of the claim.
- (iii) DGAFMS will be the final medical authority for giving views on medical issues at final stage to the DMACP.

R. SHYAM

ANNEXURE I

WARTIME RULES

No. 106123/4/P.P.3(a)
General Headquarters
Adjutant General's Branch
GHQ APO
New Delhi, 25th November, 1946

To

Headquarters All Commands, Divisions,
Brigades, Areas and Sub Areas
with sufficient copies for distribution to all medical officers.

Instructions for Medical Officers called upon to Sign Death
Certificates and for Medical Boards.

MEMORANDUM

1. New rules on entitlement to pensions were introduced for the Indian Army by A.I. (I) 43/45. Medical Boards will be held in accordance with these instructions which will be simplified or amended from time to time as may be found necessary. While not comprehensive, they are intended to be a guide so that medical officers may be enabled to give immediate effect to the alterations brought about by the new rules. Medical Officers should appreciate that not only has the old criteria been discarded but that the whole approach to the question of attributability has been changed and the changes explained below entail more accurate medical recording on their part and a more accurate appreciation of the various findings in each case.

2. Terms employed under the new rules - Hitherto the word "attributable" had an artificial meaning covering both "directly attributable" and "materially aggravated". In that sense, it has now been replaced by "due to" and "attributable" replace "directly attributable" as meaning "caused by".

The word "materially" and the words "to a material extent" have been omitted in reference to aggravation. Under the new rules worsening to any extent by service will be regarded as aggravation. The Ministry of Pensions test of the existence of aggravation in this sense will now apply to the Indian Army, namely there is held to be "aggravation" where effective service is found to have caused a degree of worsening in a previously existing condition resulting in discharge from service on account of that condition.

3. New method of approach to the question of entitlement- Though the principle that there must be a causal connection between the disability or cause of death and service is still preserved the question of supporting evidence is to be approached from a new angle. The Government of India will give full weight to two presumptions arising out of the fact that the man is accepted for service during the present war in a certain medical category. These presumptions are:-

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- (1) That at the time of acceptance he was fit for the kind of service demanded of a man in that medical category, and
- (2) That in the event of his subsequently being discharged from the service on medical grounds any deterioration in his health which has taken place is due to his service.

While the medical services are not directly concerned with the making of these artificial presumptions, in future they must bear them in mind, since, in cases which, in their opinion, should be regarded as not attributable to military service, it will be necessary to record evidence sufficient to rebut one or both of these presumptions.

Presumption (1) itself does not lead to any conclusion of entitlement but approach to Presumption (2) will be affected as pre-supposition (1) stands or falls. It is, therefore, necessary to record any evidence available which may affect Presumption (1). This may take the form of radiological or other evidence that the disease was of long standing or there may be evidence in the individual's medical history sheet or other medical documents. The history given by the individual on first admission to hospital may also be of importance.

Presumption (2) is the vital one. Unless there is contrary evidence attributability must be conceded. This contrary evidence may take the form of showing,

- (1) that no deterioration in health, persisting to date of discharge, occurred during service; or
- (2) that, where there has been persisting deterioration, the presumption that such deterioration is due to service is not well founded.

The mere fact that an individual has been invalided does not necessarily mean that his health has deteriorated during service. The disability may have been discovered soon after joining and the individual discharged in his own interest in order to prevent deterioration. In such a case there may even have been worsening during service, but if treatment given before discharge restored the individual to his normal condition so that his discharge was on grounds of expediency to prevent a recurrence, no lasting damage was inflicted by service and there is no ground for conceding attributability. Again an individual may be found to be so weak mentally that it is impossible to make him an efficient soldier, this does not establish that his condition has worsened during service but only that it is worse than was realised on enrolment.

On the other hand, where there has been deterioration attributability must be conceded under presumption (2) unless there is evidence indicating that the presumption is not well founded. There may be direct evidence of the contraction of the disability otherwise than by service, e.g. by infection while

at home on leave, and even then the question of aggravating by subsequent service will have to be considered. The difficulty will be greatest in those diseases regarded as constitutional and naturally progressive. Deterioration must be accepted as due to service unless there is evidence to the contrary including as evidence a consensus of medical opinion regarding the particular disability or the group of disabilities to which it belongs. It will thus be seen that a claim to pension will not be rejected unless presumption (2) is shown to be ill founded by written or other reliable evidence or such a consensus of medical opinion as amounts to reliable evidence.

In other words, the Government of India must be satisfied that there are reasonable grounds before any case is rejected and it will be for the medical officers concerned with the case to put forward all the medical evidence available which may have a bearing on the final decision.

4. Procedure to be adopted by Medical Boards:- It is obvious that with the new approach to the question of attributability, the present method of completing the invaliding roll must be considerably altered. At present, there are not sufficient particulars recorded regarding many of those invalided from service on account of disease to allow of a correct decision on entitlement to pension under the new criteria. It should be realised that all cases will be subject to review and it may be necessary to reverse the decision in those cases recommended for rejection of the claim to pension where the supporting evidence is insufficient. Phrases such as "equally common in civil life" will no longer have any force and should not be used except in cases of diseases which run their course independently of external circumstances; see paragraph 6(c) below. Until it is found possible to issue a revised form of invaliding roll IAFY-1948, the procedure therefore will be as follows:-

- (i) On page 5 of the invaliding roll, the medical officer-in-charge of the case should first of all give a concise history of invaliding disability as complete as possible clearly specifying the station of origin, e.g. field service area or peace station. The duration of the disability and the circumstances in which it arose may have a vital bearing on the case. Such particulars may possibly be obtained from the individual documents. The medical notes made when the individual first fell ill are of special importance as not only do they frequently show the pathological state of the disease when it first came to notice enabling a deduction to be made as to its probable duration but they often contain a statement as to the history prior to that date. Such information may be of more value than statements made at the time of invalidment when the question of a disability pension has arisen. Where relevant a short note should be added regarding defects noted.

on enrolment, family history, other illness during or prior to service. This all important history of the case should be followed by ;

- (ii) The diagnosis of the disability, about which there should be no serious doubt and an exact description of the clinical conditions present. This description should not necessarily be detailed but should make clear any features likely to assist the board in forming an opinion on the question of attributability and on the assessment of disablement. Notes on laboratory, X-ray findings etc., should be included when necessary and specialists reports on the case may be of value. Where the medical officer-in-charge of the case has considered that the individual was non-co-operative or has retarded his cure or that he was malingering, a note to that effect should invariably be recorded for the information of the board.
- (iii) Finally, whether there was neglect, delay, faulty technique or lack of reasonable skill in service medical treatment, or the exigencies of service, before, during or after the treatment could be held to have caused or aggravated the condition, these should be recorded as on these grounds alone a presumption of aggravation through service may be made if deterioration thereby resulted.
- (iv) On page 6 of IAFY-1948. In addition the words "in the hope of obtaining pension or gratuity" should be deleted from question (8). Bearing in mind that decisions contrary to the opinion of the medical board may be given on review, the percentages of disablement should be carefully assessed in all cases and entered at question (5).

5. Death certificates.- IAFY-393 Part III in which the medical officer records his opinion regarding attributability, should likewise in future contain more details of the cause of death. As a rule, not only the immediate cause of death but also the underlying disease should be noted. In the case of infectious disease it may be relevant to note the incubation period of the particular disease, eg. when the individual may have contracted the disease while on leave or prior to enrolment. It is specially important

in death cases to note whether neglect, delay, faulty technique or lack of reasonable skill** in service medical treatment can be held responsible for untoward outcome, or the exigencies of service before, during or after the treatment can be held to have caused or hastened death. The presumption already referred to will apply equally in cases of death. It should be clearly stated whether the individual died overseas or in India in a hospital or at home as a result of disease contracted overseas, or whether he died in a peace station of disease contracted in such station.

**N.B.--Should a recognised complication of the normally accepted methods of treatment properly prescribe and administered, occur, then that complication is regarded as NOT attributable to service.

6. Notes on common diseases.-- It may be advisable at a later date in issue detailed guidance regarding certain diseases. In the meantime the following notes may in some cases, be helpful. They contain the ideas of the Ministry of Pensions formed from their experience in applying the new principles in the U.K. The Ministry of Pensions state that the position regarding psychoneurosis is not yet sufficiently clear to make a pronouncement so that medical officers should use their own discretion in expressing an opinion on attributability in such cases for the present.

(a) Common diseases known to be affected by exposure to weather.--Diseases such as Bronchitis, rheumatism and nephritis-- indeed most diseases of the respiratory system, joints and kidneys are affected by climatic conditions and here the man's condition has worsened during service, the presumption that this worsening was caused or aggravated by service would be well founded, unless the service was of such short duration or the conditions of service were so good that it would be quite unreasonable to grant entitlement to pension.

(b) Common diseases known to be affected by stress and strain.-- If the individual has given reasonable service in a branch of the service where physical effort or other strain can be assumed the presumption that deterioration is due to service can be regarded as well founded. This refers particularly to pulmonary tuberculosis and certain heart conditions. It may be that in an exceptional case the man has been engaged on sedentary duties and the presumption would not then usually apply.

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(c) Diseases which run their course independently of external circumstances.--- There are certain diseases which would have run the same course whether the member had been in the Force or not. Such cases if equally common in civil life will not be accepted as aggravated by war service unless it is clear that owing to the exigencies of his service the man did not receive medical treatment of a satisfactory character and standard or such treatment was so delayed as to be less effective than it should have been.

(d) Infectious diseases.--- Death or disablement resulting from infectious disease other than venereal disease contracted during service will be regarded as attributable to military service. Where the disease may have been contracted prior to enrolment or during leave, the question of determining the incubation period in a particular case will arise and an opinion on this point should be expressed.

(e) Venereal diseases.--- Presumption (2) is not regarded as applying in the case of venereal disease, having regard to the way in which the disease is normally acquired; similarly the question of onus of proof does not arise. Cases of venereal disease or later manifestations of sequelae thereof will, therefore, only be accepted as attributable.

(i) If the disease has been contracted in the course of duty e.g., by a doctor or medical orderly.

(ii) If, having contracted disease during service, the man after treatment has returned to full duty and has been subjected to such strain as has produced one of the after-effects of the disease sooner than would normally have been the case.

(iii) If, having contracted the disease prior to enrolment, the man has been subjected to such strain as has produced or hastened a later manifestation of the disease.

Note 1. ---For the purposes of (b) and (c), the strain must be due to service and of such a degree as is unlikely to be met in civil life, and it must be clear that the later manifestation was in fact produced or hastened

by that strain. If, however, the man had reached an age when such a manifestation could be expected, the case is difficult for acceptance.

Note 2.-- A member engaged on clerical duties would not normally be subjected to any such strain, and it may be taken as axiomatic that no sedentarily employed man could establish a claim to pension save in the most exceptional circumstances.

(iv) If the disease is due to heredity and the latter manifestation is produced or hastened by conditions of the man's service (the normal considerations as to giving the benefit of doubt apply).

(v) If the disease existed before enrolment and death results from treatment given with a view to making the man an efficient soldier.

(vi) If the disease was contracted during service and death results from faulty technique in treatment.

NOTE 1.--In case of disease contracted during service should the man advance the argument that owing to the exigencies of his service he did not receive treatment when he ought to have received it, such argument will be treated with reserve.

NOTE 2.-- "Faulty technique in treatment" implies the use of drugs obviously wrong or contra-indicated, an unreasonably low or high dosage, procedures not generally recognised as correct or the lack of proper precautions.

Medical Boards will always record their opinion with reasons in support, as to whether the disease is congenital or was contracted before or after enrolment.

The general principle underlying the provisions of this sub-para is that when the disease is either hereditary or contracted by sexual contact either before or during service, entitlement for the disease itself can never be granted. Such entitlement can only be given

for a later manifestation or sequela of the disease which has been precipitated or whose onset has been hastened by the stress of service in the Army.

(F) Service employment similar to civil employment.-- Where the man's employment in the service, e.g., a lorry driver, is the same as his pre-service civil employment, and it is clear that there has been deterioration during service, the similarity of employment is not a sufficient ground for rejecting a claim to pension on the plea that the risks to health were not increased by service. That would be equivalent to giving the same weight to the possibility of deterioration in civil life as to the fact that deterioration took place in the service. This argument cannot be maintained. Where, however, the disease is one that could not be influenced by employment as, e.g. a clerk, the case is different.

/or board
of medical
officers

7. In conclusion, it is necessary to reiterate that where a medical officer considers that a case is not attributable to military service, the evidence on which the opinion is based must be clearly stated whether this takes the form of certain facts peculiar to the case or well known features regarding the disease in question.

8. G.H.Q. memoranda Nos 106123/1/AG 14(b), dated 20th July 1944 and 106123/3/P.P.3(a) dated 6th July 1945, are hereby cancelled.

ANNEXURE II

ENTITLEMENT RULES FOR THE DISABILITY AND SPECIAL FAMILY
PENSIONARY AWARDS IN RESPECT OF ALL RANKS OF THE ARMED
FORCES DURING EMERGENCY

Period of Emergency	Government of India letter
8 Sep 62 to 9 Jan 68	- A/01927/AG/PS-4(a)/9948/Pen-C dated 26 Dec 62
3 Dec 71 to 31 Mar 72 25 Mar 71 to 31 Mar 72 (Op Cactus Lily)	- A/01927/AG/PS-4(d)/11130/Pen-C dated 16 Dec 71
15 Aug 71 to 31 Mar 72 (Naval personnel)	- FN/3948/1191/Pen-C dated 1 Feb 72

Entitlement to disability or family pensionary awards in respect of all ranks of the Armed Forces eligible for pension under the Military Rules, disablement or death, shall be accepted as due to service, if -

- (a) the disablement is due to a wound, injury or disease, which-
 - (i) is attributable to service; or
 - (ii) existed before or arose during service and has been, or remains aggravated thereby.
- (b) the death was due to or hastened by -
 - (i) a wound or injury or disease which was attributable to service; or
 - (ii) the aggravation by service of a wound, injury or disease which existed before or arose during service.

2. In dealing with these cases, the benefit of reasonable doubt will be given to the claimant. The entitlement shall be denied only if it can be established beyond reasonable doubt that the conditions mentioned above are not fulfilled.

3. Where an injury or disease, which led to discharge or death during service, was not noted in a medical report or other appropriate enrolment papers prepared at the time of commencement of the individual's service, fulfilment of the conditions mentioned in para 1 above may be accepted unless there is a positive evidence to the contrary.

4. Where there is no note in contemporary official records of a material fact on which the claim is based, other reliable corroborative evidence of that fact may be accepted.

N.B. - "Service" means service in the Armed Forces during emergency rendered anywhere in India.

Special proforma should be attached to the IMB proceedings of all ranks to provide additional information vide DGAFMS letter No. 16033/DGAFMS/MA(Pens) dated 28 Jan 1972 addressed to DPMS.

ANNEXURE-III

CLASSIFICATION OF DISEASES

A. Diseases affected by climatic conditions

1. Pulmonary tuberculosis
2. Pulmonary oedema
3. Pulmonary tuberculosis with pleural effusion
4. Tuberculosis(non-pulmonary)
5. Bronchitis
6. Pleurisy, Emphysema, Lung abscess; and Bronchiectasis
7. Lobar Pneumonia
8. Nephritis(acute and chronic)
9. Otitis media
10. Rheumatism(acute and chronic)
11. Arthritis
12. Myalgia
13. Lumbago
14. Local effects of severe col climate-i.e., frost bite, trench foot and chilblains
15. Effects of hot climate-i.e., heat stroke and heat exhaustion

B. Diseases affected by stress and strain

1. Psychosis and Psychoneurosis
2. Hypertension(BP)
3. Pulmonary tuberculosis
4. Pulmonary tuberculosis with pleural effusion
5. Tuberculosis(non-pulmonary)
6. Mitral stenosis
7. Pericarditis and adherent pericardium
8. Endocarditis
9. Sub-acute bacterial endocarditis, including infective endocarditis
10. Myocarditis(acute and chronic)
11. Valvular diseases
12. Myocardial infarction, and other forms of IHD
13. Cerebral haemorrhage and cerebral infarction
14. Peptic ulcer

C. Diseases affected by dietary compulsions

1. Infective hepatitis(Jaundice)
2. Diseases of stomach and duodenum
3. Worm infestation and particularly guinea worm and round worm infections
4. Gastritis
5. Food poisoning, especially due to tinned food

.....2

/jp/

6. Gastric ulcer
7. Duodenal ulcer
8. Nutritional disorders

D. Diseases affected by training, marching prolonged standing etc.

1. Tetanus, erysipelas, septicaemia and pyaemia etc. resulting from injuries
2. Ankylosis and acquired deformities resulting from injuries
3. Post traumatic epilepsy and other mental changes resulting from head injuries
4. Internal derangements of knee joint
5. Deformities of feet
6. Osteoarthritis of spine and lower limb joints
7. Burns sustained through petrol, fire, kerosene oil etc. leading to scars and various deformities and disabilities.
8. Hernia
9. Varicose veins

E. Environmental Diseases

1. Diseases contracted in the course of official duty of attending to a venereal or septicaemic patient or while conducting a postmortem examination
2. Diseases contracted on account of handling infectious material, poisonous chemicals and radioactive substance

F. Diseases affected by altitude

1. High altitude pulmonary oedema and pulmonary hypertension
2. Acute mountain sickness
3. Psychosis, Psychoneurosis, suicide
4. Thrombosis

G. Diseases affected by service in Submarines and in diving.

1. Acoustic trauma resulting from continuous noise and vibrations
2. Effects of exposure to high levels of toxic gases
3. Droplet infections
4. Neurosis and psychosomatic disorders
5. Effects of barotrauma
6. Decompression sickness
7. Dysbaric osteo-necrosis

.....3

/jp/

H. Diseases affected by service in flying duties

1. Otitic barotrauma
2. Altitude decompression sickness
3. Hypoxia
4. Explosive decompression
5. Long duration G

J. Diseases not normally affected by service

1. Malignant diseases (Cancer and carcinoma)
2. Sarcoma (except in cases of sarcoma of bone with a history of injury, due to service, on the site of development of the growth)
3. Epithelioma
4. Rodent ulcer
5. Lympho-sarcoma
6. Lymphomas except of viral aetiology
7. Leukaemia (except radiation effect)
8. Pernicious anaemia (Addison's disease)
9. Osteitis deformans (Paget's disease)
10. Gout
11. Acromegaly
12. Cirrhosis of the liver-if alcoholic

Eyes

13. Error of refraction
14. Hypermetropia
15. Myopia
16. Astigmatism
17. Presbyopia
18. Glaucoma-acute or chronic-unless there is a history of injury due to service or of disease of the eye due to service.

New Delhi, the 6th July 1984.

To

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

Subject :- Period of grant of disability pension when the Invaliding Disability is capable of improvement.

.....

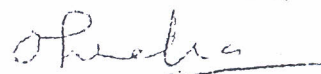
Sir,

I am directed to refer to Regulations 60-B and 185-A, Pension Regulations for the Army 1961 (Part I), and corresponding Regulations of the Navy and Air Force, and to state that the President has been pleased to decide that where the disability (whether attributable to or aggravated by military service) of officers and personnel below officer's rank, is considered as capable of change (improve or deteriorate), the period of the first award calculated with reference to the date of the medical board will be in the range of one to five years. The actual period of award in such cases will be decided by the Medical Board having due regard to the circumstances/condition of each case. It has further been decided that the period of the award on Resurvey will also be one to five years and will be decided after taking into account the circumstances of each case.

2. Pension Regulations of the three Services will be amended in due course. The relevant provisions of the Guide to Medical Officers (Military Pensions), 1980, viz., Paras 17, 18 and 19 of Chapter VII of the Guide, will be amended in due course.

3. This issues with the concurrence of the Finance Division of this Ministry vide their U.O. No. 2414 - Pen of 1984.

Yours faithfully,



(O.P. Bhatia)

Under Secretary to the Government of India.

.....2/-

No. 1(1)/81/Pen-C,
Government of India,
Ministry of Defence,

New Delhi, the 21st August, 1984.

CORRIGENDUM

1. This Ministry's letter of even number dt. 22/11/83 regarding Entitlement Rules to Casualty Pensionary Award to the Armed Forces Personnel, 1982/amended as under :-
/is

(a) Para 3 of the Appendix will be substituted by the following :-

"3. These Rules do not apply to the cases where disablement or death, on which the claim to casualty pensionary award is based, took place-

(i) during the period from 3.9.1939 to 31.3.1948, which will be dealt with in accordance with the entitlement criteria laid down in Annexure I.

(ii) during the period from 1.4.1948 to 31.12.1981, which will be dealt with in accordance with the entitlement rules promulgated in the Ministry of Defence (Pensions Branch) letter No. 138999/1/Pc, dated 18th April 1950, as amended from time to time; (reproduced as Appendix II to PRA Pt (I) (1961) and

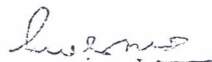
(iii) During post-1948 periods of emergency, which will be dealt with in accordance with Annexure II"

(b) After para 1, the following may be inserted as para 2.

"2. Pension Regulations for the ^{Army} Part I (1961), and corresponding Regulations for the Navy and the Air Force will be amended in due course."

(c) The existing para 2 will be renumbered as para 3.

2. This issues with the concurrence of Ministry of Defence (Finance) vide their u.o. No. 2952-Pen of 1984.


(S.R. Verma)

Under Secretary to the Government of India.

.....2/-

: 2 :

To

The Chief of the Army Staff,
The Chief of the Naval Staff,
The Chief of the Air Staff,
New Delhi.

Copy to :-

Financial Adviser, Ministry of Defence (Finance Division)
The Controller General of Defence Accounts.
The Director of Audit, Defence Services, New Delhi.
(2 copies)
The Director General, Armed Forces Medical Service,
New Delhi.
The Controller of Defence Accounts (Pensions), Allahabad.
Army Hqrs/AG/ES-1(d)..... 10 copies.

108B

No. 1(1)/81/D(Pen-C)
Government of India,
Ministry of Defence,
New Delhi, dated the
3rd February, 1992.

C O R R I G E N D U M

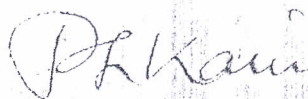
The following amendment is made in the Entitlement Rules for Casualty Pensionary Awards, 1982, issued as Appendix to this Ministry's letter No. 1(1)/81/D(Pen-C) dated 22.11.1983:-

Clause 12(e)

For : Existing entry.

Read : '12(e). When journeying by a reasonable route from one's official residence to and back from the appointed place of duty irrespective of the mode of conveyance, whether private or provided by the Government.'

2. This issues with the concurrence of Deptt. of Pension and P.W vide their I.D.No. 6042/91(K) dated 19.11.1991 and Ministry of Defence(Finance Division) vide their U.O.No. 3182/Pen/92 dated 31.1.1992.



(P.L. KAIN)

Under Secretary to the Government of India.

To

The Chief of the Army Staff,
The Chief of the Naval Staff,
The Chief of the Air Staff,
New Delhi.

Copies to:-

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8. PF&R, Air HQrs, New Delhi - 10 copies.

92-A

No.1(1)81-D(Pen-C),
Government of India,
Ministry of Defence,
New Delhi, the 24th Aug.1992.

To

A D D E N D U M

The following additions are made in this Ministry's Corrigendum No. 1(1)81-D(Pen-C) dt. 3.2.92 regarding ammendment to clause 12(e) of the Entitlement Rules for casualty Pensionary Awards, 1982 :-

(I) Add the following as Para 2.

2. The above provisions will take effect from the date of issue of the Corrigendum.

(II) Renumber existing Para 2 as Para 3.

Pl. Kain

(PL. KAIN)

UNDER SECRETARY TO THE GOVT. OF INDIA

JK

To

The Chief of The Army Staff,
The Chief of the Naval Staff,
The Chief of the Air Staff,
New Delhi.

Copy to :

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- 2. CDA.
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No.1(1)/81/D(PEN-C),
Government of India,
Ministry of Defence,

New Delhi, the 20th June, 1996.

C O R R I G E N D U M

The following amendments are made in Rule 14 of Entitlement Rules, 1982, issued vide Appendix to this Ministry's letter No.1(1)/81/D(Pen-C) dated 22.11.83 modified vide Corrigendum No. 1(1)/81/D(Pen.C) dated 3.2.92 and amended vide Addendum No.1(1)/81/D(Pen-C) dated 24.8.92.

The existing Rule 14 may be substituted as under:-

Rule 14

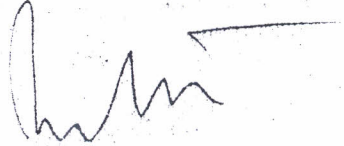
In respect of diseases, the following Rules will be observed:-

- a) For acceptance of a disease as attributable to Military service, the following two conditions must be satisfied simultaneously:-
 - i) That the disease has arisen during the period of Military service; and
 - (ii) That the disease has been caused by the conditions of employment in Military service.
- b) If medical authority holds, for reasons to be stated, that the disease although present at the time of **enrolment** could not have been detected on medical examination prior to acceptance for service, the disease, will not be deemed to have arisen during service. In case where it is established that the conditions of military service did not contribute to the onset or adversely affect the course of disease, entitlement for casualty pensionary award will not be conceded, even if the disease has arisen during service.
- c) Cases in which it is established that conditions of Military service did not determine or contribute to the onset of the disease but, influenced the subsequent course of the disease, will fall for acceptance on the basis of aggravation.
- d) In case of congenital, hereditary, degenerative and constitutional diseases which are detected after the individual has joined service, entitlement to disability pension shall not be conceded unless it is clearly established that the course of such disease was adversely affected due to factors related to conditions of military service.

contd/-

2. These provisions will be effective from the date of promulgation of the Entitlement Rules, 1982. The pending cases shall, be decided as per these provisions.

3. This issues with the concurrence of Ministry of Defence (Finance/Pension) vide their U.O.NO.1104/Pen of 1996.



(P.K.KATARIA)

Deputy Secretary to the Government of India.

The Chief of the Army Staff.

The Chief of the Naval Staff.

The Chief of the Air Staff.

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No.1(1)/81/D(PEN-C),
Government of India,
Ministry of Defence,

New Delhi, the 21st June, 1996.

C O R R I G E N D U M

The following amendments are made in Rules 17 and 27 of the Entitlement Rules, 1982 issued vide Appendix to this Ministry's letter No.1(1)/81/D(PEN-C) dated 22.11.83.

Rule-17

For: Existing entry.

Read:Medical Opinion and Competent Medical Authorities

17(a). For the purpose of these rules, the following authorities shall be the Appropriate/Competent Medical Authorities for giving medical opinion on the aspects of assessment of disability and acceptance of death/disablement due to causes attributable to/aggravated by military service:-

- | | | |
|-------|---|---|
| (i) | In respect of initial claims of Commissioned Officers. | Medical Advisor (Pension)/ Jt. Dir. AFMS (Pension) in the Office of the Dir. General, Armed Forces Medical Services (DGAFMS). |
| (ii) | In respect of initial claims of personnel below Officer rank. | Medical Advisor (Pension)/ Jt. Dir. AFMS (Pension) attached to the Office of Chief CDA (Pensions). |
| (iii) | At the First Appeal stage. | Dy. DGAFMS (Pension) in the Office of DGAFMS. |
| (iv) | At the Second Appeal stage. | Dir. General Armed Forces Medical Services (DGAFMS). |

(b). At the time of invalidment/release of a service personnel medical views on attributability/aggravation and degree of disability shall be given by the Invaliding Medical Board (IMB)/Release Medical Board (RMB). The findings of the IMB/RMB/RSMB which are recommendatory in nature, shall be reviewed by the Competent Medical Authority at the time of consideration of Initial claim/Appeal for grant of disability pension. The Competent Medical Authority may for reasons to be recorded in writing, alter or modify the recommendations of IMB/RMB/RSMB/Lower Medical Authorities.

contd/-

(c) The Competent Medical Authorities after review of the IMB/RMB/RSMB proceedings/findings of the lower Medical Authorities, study of related medical/service documents, the clinical profile recorded and keeping in mind the aetiology and nature of disease, shall evaluate the role played by service factors in the onset/progress of the disability. The recommendations of the Competent Medical Authority as accepted by the Pension Sanctioning Authorities i.e., Chief CDA(Pension)/Ministry of Defence shall be final with regard to the entitlement and assessment of disability for the purpose of grant of disability pension.


Rule-27(c).

For Existing entry.

Read: Medical Authority - Assessment of disablement and acceptance of attributability/aggravation in cases of disabilities other than injuries are medical issues. Views on such medical issues shall be given by the Competent Medical Authorities defined under Rule 17.

4. The provisions of this corrigendum will be effective from the date of promulgation of the Entitlement Rules-1982. The pending cases shall, be decided as per these provisions.

5. This issues with the concurrence of Ministry of Defence (Finance/Pension) vide their U.O.No.1104/Pen of 1996.


(P.K.KATARIA)

Deputy Secretary to the Government of India.

The Chief of the Army Staff,

The Chief of the Naval Staff.

The Chief of the Air Staff.

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| 11. DPA (N), NHQ. 10 copies. | 12. Air HQ/PP&R, New Delhi. 10 copies. |
| 13. D(Pen-A) - 5 copies. | |

No.1 (1)/81/D (Pen-C) -Vol.II
Government of India,
Ministry of Defence,

New Delhi, the 27 th October, 1998.

To

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

Subject:- Entitlement Rules to Casualty Pensionary Awards in respect of Armed Forces personnel-definition of duty when proceeding from duty station to leave station or returning to duty from leave station provided entitled to travel on public expense.

Reference:- Para 12(d) of Entitlement Rules to Casualty Pensionary Awards promulgated vide this Ministry's letter No. 1(1)/81/D (Pen-C) dated 22.11.83.

Sir,

I am directed to refer to para 12(d) of the Entitlement Rules to Casualty Pensionary Awards 1982 issued vide Ministry of Defence letter No. 1(1)/81/D (Pen-C) dt. 22.11.83 on the above subject and to say that the question regarding interpretation of the said rules has been under consideration of the Government for some time past. In order to ensure that genuine cases are not denied the benefit of this rule, the President is pleased to decide that the clause "Entitled to travel at public expense" implies that once an individual subject to Army/Navy/AF Act is sanctioned leave by competent authority and he/she is entitled to travel from his/her duty station to leave station or vice versa on availing warrant/concession voucher or Cash TA etc, he/she becomes entitled to travel at public expense irrespective of whether such an individual has obtained/utilised railway warrant/concession voucher/Cash TA etc or not.

2. The following guidelines are given for applicability of revised interpretation correctly while deciding the cases:

- (a) All Army personnel while travelling between their place of duty to leave station and vice-versa are to be treated on duty irrespective of whether they are in physical possession of railway warrant/concession vouchers/Cash TA etc or not. An individual on authorised leave would be deemed to be entitled to travel at public expense.
- (b) The time of occurrence of Injury should fall within the time an individual would normally take in reaching

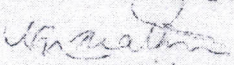
the leave station from duty station or vice-versa using the commonly authorised available mode(s) of transport. However injury beyond this time period during the leave would not be covered.

- (c) The provisions of this rule are applicable only when journey is undertaken by the shortest possible routes. Any deviation from the shortest routes will require sanction of the competent authority.
- (d) Where an individual is recalled from leave for reasons beyond his own control or returns to duty station earlier voluntarily, benefit would be given if sanction of the competent authority exists for the same.
- (e) Where more than one mode of transport exists for going to/coming from leave station, the benefit should be given irrespective of the mode of transport chosen. For instance, journey by road is at times more convenient than by train. In case an individual opts for the most convenient mode of transport, the benefit should be given to the individual. This benefit should also be given to the individual where dislocation of normal traffic is due to strike, flood and other natural calamities and one is compelled to travel by unconventional mode of transport due to reasons beyond one's own control.

3. These provisions shall be made applicable to cases occurring on or after the issue of these orders. Pending cases with the Ministry on the date of issue of this order will also be decided and regulated under the revised orders.

4. This issues with the concurrence of Ministry of Defence (Finance) vide their U.O.No. 2290/Pen of 1998.

Yours faithfully,


(N.N. MATHUR)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

Copy to:-

DFA (Pens)
ACGDA (Pens)
CDA (P), Allahabad - (Sh. Y.S. Negi, CDA)
JDAFMS (Pens)
Dir, Pers/AG PS-4, Army Hqrs
DDPP&R 3/Air Hqrs.
DPA/NHQ
US/D (Pen-A&AC)