Review Article

A REVIEW OF CASUALTY PENSIONARY AWARDS : ENTITLEMENT AND ASSESSMENT

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ABSTRACT

Armed Forces personnel and their families are entitled to casualty pensionary awards in the form of disability pension, special or family pension when disability or death has been due to service factors. In this article an effort has been made to make the medical officers in general and medical boards in particular aware of the existing entitlement rules, assessment guidelines, channel of processing and various authorities empowered to decide these claims. Some of the areas needing special consideration by medical boards have been highlighted.

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KEY WORDS : Casualty pensionary awards; Medical adviser (pensions); Entitlement; Disability; Assessment.

Introduction

Armed Forces Medical Services in India provide comprehensive health care to service personnel and their families. They also undertake system of periodic medical examination and medical categorization for service personnel. This plays an important role in early detection, treatment, convalescence and limitation of disabilities by prevention of sequelae and complications, thereby conserving manpower. Medical officers at various levels are also called upon to examine the status of different disabilities when personnel are to be released or invalided out from service.

The recommendations made by specialists as well as medical boards at the time of release or invalidment have important bearing on the casualty pensionary awards (CPA). At times these recommendations are not as per laid down rules and guidelines which necessitate revision of the same by officers appointed as Medical Adviser (Pensions). This leads to dissatisfaction among personnel as their claims are rejected by pension sanctioning authority. These individuals in turn take recourse to civil courts for necessary redressal.

The aim of this article is to highlight important aspects of CPA so as to enable medical authorities at all levels to award entitlement for disabilities by consistent and correct application of entitlement rules and guidelines. This will improve the level of satisfaction among service personnel and their families.

Pension sanctioning authority (PSA) and channel of processing of CPA

Government of India (Ministry of Defence) or its delegate, the Chief Controller of Defence Accounts (Pensions), Allahabad are the PSA [1]. CCDA (P) deals with disability pension and special family pension in respect of Junior Commissioned Officers and Other Ranks while the Ministry of Defence deals with cases in respect of officers.

Claims for CPA are based on medical records of the individuals including duly approved release, invaliding or resurvey medical board proceedings, death certificate and postmortem reports as well as administrative documents like injury reports, courts of inquiry proceedings and service record (sheet roll) of the individual. Claims are initiated by Record Offices and are decided by PSA in

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consultation with Medical Adviser (Pensions) hereafter referred as MA (P). Officers claims are also reviewed by services headquarters and finance authorities during their adjudication. There is a provision for appeal to Government of India by individuals who feel aggrieved due to rejection of their claims by PSA. These appeals are reviewed by higher medical, administrative, and finance authorities so that appropriate redressal is granted.

It will be observed from the foregoing that claims for CPA are commented upon by various medical and non-medical authorities who, as per entitlement-rules 1982 (2), can revise the recommendations of medical boards. This ensures a verdict based not only on entitlement rules but also supported by evidence that service factors have contributed to the causation or aggravation of disabilities.

Role of Medical Boards

Medical boards are constituted from among the medical officers in hospitals who have not undergone any specific training in the field of CPA and are frequently replaced as well. Hence at times the recommendations made by these boards are not as per entitlement rules and guidelines. Rule 27 (c) of Entitlement Rules 1982 (2) lays down the role of medical authority, in that 'assessment of disablement and entitlement in cases of disabilities other than injuries are purely medical issues. 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 MA (P)/Director General Armed Forces Medical Services (DGAFMS)'.

Medical boards must record their conclusions duly supported by cogent reasons, giving due consideration to the aetiology and pathogenesis of diseases. Other relevant particulars including the time and circumstances of exposure/onset and its relationship with service conditions should also be considered. All relevant medical documents especially pertaining to the time onset of disability should be called for perusal by the medical board making their recommendations.

When the MA (P) rejects the entitlement or as-

essment recommended by medical boards, the affected individuals feel disappointed as invariably they had come to know of the earlier recommendations. Some of them knock the doors of civil courts who deliver judgements in their favour based on the original recommendations of medical boards while ignoring the revision done by (MA) P. In order to reduce, if not altogether eliminate such cases, it is imperative that medical boards base their recommendations on facts documented, clinical profile of disabilities, and guidelines on the subject.

Generally a specialist giving opinion in a case should not include his recommendations regarding entitlement and percentage of disablement of a disability. However if medical boards specifically ask for the same, the specialist may endorse it separately for their guidance. This should not be included in the opinion typed on medical board proceedings.

Role of Medical Adviser (Pensions)

MA (P) in the office of DGAFMS and CCDA (P) Allahabad are the medical adviser to PSA. In case of any doubt, PSA is authorized under Rule 17 of entitlement rules 1982 (2) to seek a second medical opinion from MA (P). In majority of cases PSA accepts the recommendations of various medical boards regarding entitlement and assessment of disabilities. However, in cases where PSA does not agree with these recommendations, it refers them to MA (P) for second medical opinion. The recommendations as reviewed by MA (P) in respect of disabilities other than injuries and assessment of disablement in all cases are accepted by PSA as the same are purely medical issues. Entitlement for disabilities due to injuries is decided in consultation with administrative authorities.

The review and revision is carried out by specialist medical officers of MA (P) who because of their expertise gained through exclusively dealing with disability pension cases apply the rules and guidelines uniformly and objectively based on the facts recorded in documents.

Workload of Medical Adviser (Pensions)

MA (P) at CCDA (P) Allahabad deals with approximately 30,000 cases of CPA annually.

TABLE 1

Casualty pensionary awards by medical adviser (Pensions), Allahabad

Year	Number of cases	Monthly average
1990	28582	2382
1991	30578	2548
1992	33755	2813
1993	27807	2317
1994	23156	1930

Details for the period 1990-94 are as per Table 1.

Details of yearly workload for the same period of MA (P) in the office of DGAFMS are as per Table 2. This includes initial claims of officers as well as first and second appeal cases in respect of all ranks and families. An average of 2000 cases are dealt with annually.

Table 3 shows the monthly break-up of revised awards by MA(P) at CCDA (P) during the period Oct 94-Mar 95. It will be noted that MA(P) not only rejects cases which have been recommended by medical boards but also accepts entitlement and increases percentage of assessment in substantial number of cases which were not recommended medical boards. The uniform and unbiased application of entitlement rules and guidelines by MA(P) based on documentary evidence is clearly brought out in Table 3.

Entitlement to Casualty Pensionary Awards

The question of entitlement to CPA and evaluation of disabilities as per rules 5 and 6 of entitlement rules 1982 (2) are based on following assumption :

a) A member is presumed to have been in sound physical and mental condition upon entering service except as to physical disabilities noted or

TABLE 3

Revised entitlement and assessment by medical adviser (Pensions) Allahabad

Month	Number of cases rejected by medical board but accepted by MA (P)	Number of cases where % of assessment increased by MA (P)	Number of cases recommended by medical board but rejected by MA (P) (d)
(a)	(b)	(c)	(d)
Oct 94	65	71	414
Nov 94	74	45	482
Dec 94	49	55	133
Jan 95	18	31	109
Feb 95	38	48	143
Mar 95	61	82	157

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.

Rule 6 further states that '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 or 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

TABLE 2

Casualty pensionary awards by medical adviser (Pensions) at office of DGAFMS

Year	Initial Claim	First appeal	Final appeal	Total	Monthly average
1990	567	1775	37	2379	198
1991	435	1472	28	1935	161
1992	529	1641	45	2195	183
1993	639	1708	14	2361	197
1994	525	1704	12	2241	187

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

Rule 8(2) states that 'attributability or aggravation shall be conceded if causal connection between death or disablement and military service is certificated by appropriate medical authority'.

Post-discharge Claims

Entitlement to disability pension or special family pension is also admissible in case of disease arising within 10 years after discharge from service, if it can be established that they were a delayed manifestation of disease processes initiated as a result of conditions of service.

Assessment of Disabilities

The evaluation of a disablement for pension purposes is called assessment. It is estimated by reference to the physical or mental capacity for the exercise of necessary functions of a normally occupied life which would be expected in a healthy person of the same age and sex. It should represent the extent to which the disablement has reduced that capacity [3].

Rule 22 of Entitlement Rules 1982 (2) states that, 'assessment of degree of disability is entirely a matter of medical judgement and is the responsibility of the medical authorities'. The assessment is to be determined entirely on objective clinical profile, radiological findings and results of relevant laboratory investigations. Sentiments, sympathy and personal feelings should not come in the way of appropriate assessment.

Individuals who are retained in service with a disability are entitled to claim a lumpsum compensation in lieu of disability pension for a disability which has reached finality and is accepted by PSA as attributable or aggravated by service. The disability should have arisen on or after 1 Jan 1986 and assessed at 20% or more. Disability Compensation Medical Board (DOMB) will be held at Command Hospitals and opinion shall be given by the concerned Senior Adviser. The individual foregoes any further claim on account of the disability [4].

Entitlement in Specific Cases

1. Diseases : Entitlement in cases of diseases is

covered by rule 14 and 15 of entitlement rules 1982 (2) which state that 'a disease is considered attributable to service if the onset of the same is determined or contributed by service factors and is considered aggravated if its subsequent course is adversely influenced by military service'. The causal relationship for onset or aggravation has to be established. General remarks like 'aggravated due to stress and strain of service' are not adequate to award entitlement.

Death or disablement resulting from diseases due to infections contracted during service except STD shall be regarded as attributable to military service. Where such a disease may have been contracted prior to enrollment or during leave, the question of determining the incubation period will require specific consideration. Infections such as acute appendicitis which are endogenous in origin are not considered attributable to service.

2. *Injury Cases* : The decision regarding entitlement in injury cases is administrative and depends upon whether the individual was on duty or not and should be recommended accordingly. If the injury report or court of inquiry are not available, the decision regarding entitlement should be left to the PSA to decide [3]. However, assessment of disablement must be recommended in all cases. 'Duty' under rule 12 of entitlement rules 1982(2) is defined as 'when performing an official task or a task, failure to do which would constitute an offence triable under the disciplinary code applicable to him'. Details regarding duty are elaborated in this rule. Since Feb 1992 personnel are considered to be on duty 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 [5].

3. *Ischaemic Heart Disease* : Medical boards often recommend cases of IHD for entitlement without mentioning specific or exceptional physical or mental stress. Attributability in cases of myocardial infarction is only conceded if it arises during service in close time relationship to service compulsion involving severe trauma or exceptional mental, emotional or physical strain during the preceding 48 hours. Aggravation is conceded in cases where there is evidence of severe mental,

emotional or physical stress due to participation in operations or high pressure planning in field, other activities involving stress in peace or training during the preceding two weeks [3]. In order to substantiate the claim, proforma for 14 days charter of duties must be called for by the treating hospital and perused by the initial medical board.

4. Pre-enrolment disabilities : In cases where it is established that the disability existed before enrolment, the same is not considered attributable to service. Certain diseases like tuberculosis, leprosy, mental disorders, bronchial asthma, epilepsy and some congenital defects may escape detection at enrolment being in latent or remission stage. In such cases any deterioration of the disability brought about by service factors would entitle claim on the basis of aggravation [3].

5. Delay in diagnosis or adverse effects of treatment : The question as to whether, through the exigencies of service, the diagnosis and treatment of the wound, injury or disease was delayed, faulty or otherwise unsatisfactory, including the adverse effects of treatment, shall also be considered. The entitlement for any ill-effects arising as a complication from such factors shall be concerned as attributable [2].

While conceding attributability on grounds of delay in diagnosis, the delay must be established as unreasonable delay. Because diagnosis of certain disease like cancer always takes time and the fact of unreasonable delay by conventional parameters must be established before conceding attributability.

Conclusion

Defence personnel are often deployed in most inhospitable terrain and environment. They are also called upon to carry out operational tasks under great physical and mental stress. These factors

are peculiar to defence services. Accordingly the resultant disabilities or deaths under such circumstances which are related to military service are accepted for financial compensation in the form of CPA.

Therefore it devolves on us, the medical authorities, to examine each and every case of disability or death in proper perspective and recommend entitlement by judiciously applying the laid down guidelines and rules so that affected individuals get their dues in all those cases where causal connection between disability or death and military service has been established by available evidence.

Medical boards, approving authorities and MA (P) should keep in mind the interest of the individual as well as that of state and make recommendations most objectively so that interest of neither is overlooked. This will not only result in the claimants getting their legitimate entitlement for disabilities but will also go a long way in improving the credibility of medical boards in general.

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