

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

(Th. Virtual Mode)

WP(C) 380/2026

UNION OF INDIA TH ITS
SECRETARY MINISTRY OF
DEFENCE AND OTHERS

...Petitioner(s)

Through: Mr. Vikas Sharma, Advocate

Vs.

EX LNK MOHD FAROOQ

...Respondent(s)

Through: Mr. Chakshu Sharma, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

22.07.2026

01. This petition by Union of India filed under Article 226 of the Constitution of India is directed against an order and judgment dated 20.02.2023 passed by Armed Forces Tribunal, RB Srinagar at Jammu [for short AFT] in TA No. 146/2017 (SWP No. 610/2015) titled "*Mohammad Farooq Vs. Union of India & Ors.*" whereby the TA filed by the respondent herein for claiming disability element of pension has been allowed and the petitioners herein have been directed to grant the disability element of the pension to the respondent at 20% for life rounded off to 50% for life.

02. Briefly stated the facts leading to the filing of this petition by the Union of India are that the respondent herein was

enrolled in Indian Army on 27.01.1999 and was discharged on request w.e.f 31.05.2014 after rendering more than 15 years regular service.

03. During the course of the service, the respondent being a sports person took part in games and met with a disability of hearing loss.

04. The respondent was initially placed in low medical category w.e.f 04.05.2002 and subsequently downgraded to the medical category S1H2 (permanent) A1P1E1 w.e.f 26.10.2012 due to diagnosis, "**Mixed hearing loss [LT]**".

05. The respondent upon discharge was placed before the Release Medical Board which assessed his disability as Mixed Hearing Loss (LT) (380) @ 05%-09% for life and opined that disability was neither attributable to nor aggravated by military service. Acting on the medical opinion the petitioners rejected the claim of the respondent for payment of disability element of disability pension, though he was granted the service element.

06. Feeling aggrieved, the respondent herein filed SWP No. 610/2015 before this Court for grant of disability pension w.e.f 31.05.2014 with interest. The writ petition came to be transferred to the AFT where it was registered as TA No. 146/2017.

07. The petition of the respondent herein was opposed by the petitioners herein on the ground that disability suffered by the respondent was neither attributable to nor aggravated by military service and also that the disability was assessed less than the minimum required disability of 20% for payment of disability pension.

08. The matter was considered by AFT in the light of the rival contentions and the material on record. The Tribunal came to the conclusion that the disability of hearing impairment/hearing loss could not be assessed less than 20% in view of para 20 of Amendment to Chapter VII of Guide To Medical Officers-2008.

09. The Tribunal also concluded that the disability of hearing suffered by the respondent while in the service of the petitioners and in the course of sports activities, cannot be said to be otherwise than being attributable to military service.

10. The Tribunal rejected the contentions of the petitioners herein to the contrary allowed the petitioner and granted the reliefs prayed for.

11. The respondent was held entitled to disability element of disability pension at 20% for life rounded off to 50% for life w.e.f the day after his date of actual discharge.

12. The petitioners are aggrieved of and have assailed the judgment of AFT on the grounds on which the petition of respondent was resisted before the AFT.
13. We have heard learned counsel for the parties and perused material available on record, we are of the considered opinion that the judgment passed by the AFT does not suffer from any legal infirmity. The Tribunal has rightly rejected both the contentions raised on behalf of the petitioners to justify denial of disability element of pension to the respondent.
14. We are in full agreement to the AFT that the respondent suffered disability of Mixed Loss of hearing during the course of service while he was participating in games/sports, and, therefore, it would be highly unjustified to say that the disability suffered by the respondent is not attributable to the military service.
15. Regarding the disability of the 20% in the case of hearing loss, we place reliance upon the judgment of the Armed Forces Tribunal Regional Bench, Lucknow upheld by the Hon'ble Supreme Court by dismissing SLP filed by the Union of India in the case of *(Col) Rajiv Kacker Vs. Union of India* [OA No. 802/2021] decided on 21.03.2022.
16. The AFT Lucknow Bench relied upon para 20 of the Amendment to Chapter VII of Guide to Medical Officers,

2008 and came to the conclusion that degree of disability in case of hearing loss could not be assessed less than 20%.

17. The matter was taken to the Hon'ble Supreme Court by the Union of India in Civil Appeal Diary No. 42446/2022. The Hon'ble Supreme Court dismissed the SLP while upholding the view taken by the AFT in paragraph 7 of the judgment.

18. In view of the aforesaid, we are of the same view that in terms of para 20 of the Guide to Medical Officers, the disability in the case of hearing loss should not be ordinarily assessed at less than 20%. We are further of the view that in case Medical Board is of the view that the disability in case of the hearing loss is less than 20%, it is under an obligation to spell out reasons having regard to the yardstick laid down in the para. This, however, has not happened in the instant case, and, therefore, we are left with no option but to accept the contention of learned counsel for the respondent that the disability in the instant case must be taken at minimum of 20% as has been taken by the AFT.

19. For the foregoing reasons, we find no merit in this petition, the same is accordingly *dismissed*.

20. Let the judgment passed by the AFT and upheld by us today be implemented within a period of two months from the date copy of this order is made available to competent authority.

(Mohd Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:
22.07.2026
"S. Nuzhat"