

**COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

11.

OA 2042/2019

Sep Umesh Chandra

..... Applicant

VERSUS

Union of India and Ors.

..... Respondents

For Applicant : Mr. Narendra Kaushik, Advocate and
Mr. Pankaj Kaushik, Advocate

For Respondents : Mr. Arvind Patel, Advocate

CORAM:

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN PHILIP CAMPOSE, MEMBER (A)**

ORDER
28.02.2020

Issue notice to the respondents. Notice is accepted by Mr. Arvind Patel, learned counsel appearing for the respondents, who seeks time to file the counter affidavit. Let the same be filed before the next date of hearing.

2. The applicant herein challenges his discharge on the ground that he has been found to be in low medical category. Even though, various grounds are canvassed in the application to say that the applicant is fit for duty, one of the grounds canvassed is that in accordance to the amendment made to the provisions of Rule 13 of the Army Rules, 1954 on 13th May, 2010, a person found to be permanently in low medical category shape-II or shape-II can be discharged by the Commanding Officer only on recommendations of the Release Medical Board.

3. Similar contentions have been considered by us in various cases and in all such cases the following orders have been passed:

”The applicant herein challenges the impugned order dated 28th November, 2019 proposing to discharge him with effect from 29th February, 2020 on the ground that he has been found to be a person in the low medical category. Case of the applicant, as canvassed before us, is that after amendment to the provisions of Rule 13 of the Army Rules, 1954 on 13th May, 2010 a person found to be permanently in low medical category shape-II or shape-III can be discharged by the Commanding Officer but only on recommendations of the Release Medical Board. The aforesaid rule came up for consideration before a Division Bench of the Punjab and Haryana High Court in the case of Subedar Manjit Singh Vs. Union of India and Ors. CWP No.988 of 2012 and by order dated 19th May, 2014 it has been held by the Learned Bench that even if the applicant was in permanent low medical category he cannot be discharged without submitting him to the Release Medical Board. The case of the applicant is that he is being discharged without submitting him to the Release Medical Board.

We issue notice to the respondent to show cause as to why the contention of the applicant be not taken as correct as far as interim order is concerned. Notice is accepted by Ms. Barkha Babbar, learned counsel for the respondents. Let

objections/reply be filed before the next date of hearing.

It is made clear that the discharge of the applicant shall be in accordance with the statutory provisions after submitting him to the Release Medical Board.”

4. Keeping in view the aforesaid, we direct that in the case of the present applicant also the discharge shall be strictly in accordance to the statutory provisions and after submitting him to the procedure contemplated by referring him to the Release Medical Board.

List the matter before Court on 30th March, 2020.

A copy of this order be provided **DASTI** to learned counsel for the parties.

(RAJENDRA MENON)
CHAIRPERSON

(PHILIP CAMPOSE)
MEMBER (A)

/ps/