

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

24.

OA 35/2019

Col Ombir Singh Dhaka (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. SS Pandey, Advocate
For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
17.10.2023

On behalf of the respondents has been produced the original Injury Report dated 10.09.1998 signed by the Colonel Commandant Engineer Stores Depot Delhi Cantt – 110010 stating therein to the effect that injury sustained by the applicant was not attributable to military service and the short statement of the circumstances of the case depicted in Para 3 as under:-

“On 31 May 98 at about 2000h, i was at my home E 391 Ashok Nagar Delhi 93, when I came out of my bedroom on first floor and fell down since the grill was open and became unconscious.”

2. The Commanding Officer's opinion is also on the record in Para 4 thereof which is as under:-

“(a) (i) Was the individual in the courts of performance of an official task or a task he failed to do which would constitute an offence triable under the disciplinary code applicable to him? (indicate the nature of the task by whom it was ordered and when.) **NO**
or

(ii) Did the accident occur during the journey or transport by a reasonable route under organized arrangements from the individual's quarter to or back from an appointed place of duty?(Attach copies of standing instructions or other orders in support if the journey or transport was officially organized also a sketch showing the reasonable route from the individual's quarter to the place of duty.)

NO

or

(iii) Was the individual participating in recreation organized or permitted by Service authorities? (With reference to RAI Rule 312 indicate the nature of the recreation, e.g., P. T. Exercises, including games. In case of games and sports of Parade hour attach copy of official orders to indicate that it was organized or permitted by competent authority.)

NO

or

(iv) Was the individual travelling either in a body or singly under organized arrangements? (Attach copy of official orders to indicate that the arrangements were organized by competent authority.)

NO

or

(v) Was the individual proceeding to his leave station or returning to duty from his leave station? In either case, was the journey at public expense or was performed on concession voucher or at individual's own expense?

NO

(1) the dates of commencement and termination of the period of leave;

NA

(2) the name of the leave station; and

NA

(3) particulars of the direct route from the place of duty to or from the leave station.

NA

(b) Was the accident due wholly/partially to-

(i) serious negligence

NO

and/or

(ii) Misconduct of the individual? (Indicate the nature of the serious negligence or misconduct and the grounds on which the opinion is base-See instruction 10.)

NO

(c) Was any one else to blame for the accident?

NO

(d) Was the individual under the influence of intoxicating drink or drug at the material time?

NO"

3. The said document is taken on record and copy thereof be placed on the record with the copy being supplied to the applicant through counsel.

4. On behalf of the applicant, documents have been produced and taken on record which relate to an attributability certificate

as well as a document mentioned as being Appendix-E making a mention of the service HQ being a competent authority in injury cases having re-opined and held the ID as attributable to military service as per ER-1982 vide note-7-ante, copies of these documents have been supplied by the applicant to the respondents. The respondents are directed to produce the original of the said document with all original records.

5. Re-list the matter on **29.11.2023**.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

AP