

**COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

89.

OA 1902/2024

Ex Nk Pale Ram Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. A K Bakshi, Advocate
For Respondents : Mr. Jagdish Chandra, Advocate

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
26.09.2024

Invoking the jurisdiction of this Tribunal u/s 14 of the AFT Act, the applicant has filed this application and relief claimed in the application is to the effect that the respondents particularly, R-7 be directed to conduct the delayed Release Medical Board of the applicant as per the sanction granted to the applicant by the Competent Authority vide letter dt 22.12.2023 (Annexure A-5).

2. Vide Annexure A-5 dt. 22.12.2023, the Office of the Additional Directorate General of Personnel Services, PS-7 in terms of the powers delegated to him in Para (1) of the said communication accorded condonation of delay for holding the delayed/belated Release Medical Board (RMB) after discharge/release from service of the applicant on 21.12.1999. Now, it is the grievance of the applicant that after his discharge from service, he is residing at RZ-62A, Kamla Park, Dharampura Najafgarh, New Delhi and his only submission is that Release

Medical Board as directed vide Annexure A-5 be held at Base Hospital, Delhi Cantt. While issuing notice to the respondents on 02.07.2024, we had indicated to the respondent as to what is their objections and what is the impediment in holding the Release Medical Board at Delhi, as prayed for by the applicant. Today, the OIC, Legal Cell of this Tribunal has produced a communication received by him from the Office of the OIC, Records and in Para (7) of the said communication the following factors are indicated:

7. It is most respectfully submitted that the authority in vogue for holding medical examination of all ranks prior to Release, Retirement, Discharge on completion of tenure or service limit is Army Order 3/89 (Copy enclosed) and with regard to holding belated RMB Army Order 3/89 stipulates that, "Where sanction has been accorded to hold the Release Medical Examination belatedly, the Record Office concerned for Army/AFRSO (for Air Force/CABS (for Navy) would direct the individuals to the nearest service Medical Unit/Hospital for Medical examination/Board. In case of officers, the respective service Hqrs will direct the officer to the nearest service Medical Unit/Hospital for medical examination." Hence, a set of blank RMB proceedings and connected documents were sent to his nearest Military Hospital i.e. MH Hisar.

That apart in para 4, it is stated that the applicant is a resident of Sonipat, Haryana according to the records of the respondents and they have difficulty in holding the RMB at Base Hospital, Cantt. Delhi.

3. Rules and regulations are meant for being implemented to the convenience of the men in uniform and soldiers. Conduct of

Release Medical Board by a hospital under the command and jurisdiction of the respondents at wherever it is held is deemed to be conducted in accordance with the rules and regulations and if, a retired employee like the applicant wants his medical examination to be conducted in a particular hospital looking into the convenience and everything, technicalities with reference to the rules and regulations and orders should not come in the way of respondents in insisting that the medical examination cannot be conducted at the place of choice of the applicant. The respondents within the Article 12 of the Constitution are supposed to be a model employer who always adjust to the reasonable and genuine grievance expressed by the employee concerned. The grievance of the applicant is only to the effect that presently he is staying in Delhi and it can be convenient for him in case the medical examination is conducted in the Base Hospital at Delhi Cantt. The Base Hospital, Delhi Cantt comes within the jurisdiction of the respondent's organization and the said hospital is under the control of the Army Authorities. It is R-4, the Directorate General, Medical Services (Army) (DGMS-5A) MoD (Army) who controls the administration and functioning of all Army hospitals and Military Hospitals and the Base Hospital, Delhi Cantt also comes under its control. It is not a case where the applicant is insisting on getting his medical examination done by the Pvt. Hospital or any of the other Government Hospitals for which the respondents may have

objections. When the applicant is only insisting upon getting his RMB conducted at a hospital within the jurisdiction of the respondents because of his convenience, we see no reason that the respondents to raise any objection. In spite of raising of such objections, respondents should have in the very first instance accorded for conduct of the medical examination at the place requested by the applicant. Taking note of the same and without expressing any opinion or any other issue that may arise on account of the peculiar facts and circumstances of this case, we direct that all the respondents particularly R-7 receiving a copy of this order which would be submitted by the applicant within 10 days from today. The said respondents shall fix date for conducting the Release Medical Board of the applicant, communicate it to the applicant and applicant shall make himself available at the place as directed by R-7 for his medical examination and after conduct of the medical examination, the respondents are free to proceed in the matter in accordance with law. With the aforesaid we allow and dispose of this application.

4. Let a copy of this order be given '*DASTI*' to both the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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