

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
07.**

O.A. No. 148 of 2011

Smt. Tanuja Dod

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Anil Srivastava, Advocate.

For respondents: Ms. Sangita Tomar, Advocate with Col. Sanjeev Jaiswal

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
20.01.2012

Petitioner vide this petition has prayed that a fair and impartial Court of Inquiry at appropriate level may be held to point the blame worthiness on the medical staff and doctors in the entire episode which led to the death of petitioner's husband.

Petitioner is the wife of late Lt Col. Dinesh Singh Dod. Lt Col. Dinesh Singh Dod was commissioned on 17.12.1988 in 2 Assam Regt. (Infantry). He was married to the petitioner on 23.12.1994 and out of that wedlock, a male child was born on 11.11.1997. Lt Col. Dinesh Singh Dod was in medical category Shape I till 2002. He had palpitation and uneasiness while at high altitude and BP recorded was high. He had been in High Altitude in 1994-96 at Siachin Glacier. He had undergone a cardiac evaluation at 151 BH and MH (CTC) Pune and had no evidence of hypertension.

On 01.03.2002, Lt Col. Dinesh Singh Dod reported to MI Room 2 Assam when he was in High Altitude Area for 3 days from Tenga with onset of breathlessness and heaviness in head. Blood Pressure was 160/110 and he

was immediately shifted to lower altitude on medical advice. He had similar symptoms twice earlier also when being inducted in High Altitude Area but no abnormality detected. He was placed under law medical category Shape 2E for 24 weeks at MH Jallandhar Cantt. He came on posting on 02.09.2009 to HQ DGR, IHQ of MoD (Delhi) from Rashtriya Rifles, a hard field tenure in counter insurgency area. He had 21 years of service.

On 14.03.2010 being a Sunday while playing golf at Delhi about 0810 hours, he felt a sharp shooting pain at the back of his head and neck and fell down unconscious and regained consciousness after one and half minutes. The other three officers playing with him immediately brought him to Army Hospital R&R by about 0840 hrs. Petitioner also reached at hospital immediately. On arrival, there were three doctors on duty in the casualty/emergency who attended Lt Col. Dinesh Singh Dod. The Blood Pressure was recorded as 146/98. Blood Sugar and ECG were normal. The Duty Medical Officer (DMO) diagnosed it as a case of 'Syncope', 'TIA'. The three officers accompanying Lt Col. Dinesh Singh Dod and petitioner requested the Medical Officer to get a CT Scan conducted to ascertain the cause of the blackout, however, DMO replied that it exposes to radiation and did not agree for CT Scan. In the meanwhile, Lt Col. Dinesh Singh Dod was administered an injection of Voveron and some painkiller tablet at about 0945 hrs and it was advised by DMO to take back the patient to home despite the persistence of the neck pain and throbbing pain in the left side of his head. Then at the residence Lt Col. Dinesh Singh Dod was complaining of a strange discomfort and persistence headache, petitioner decided to get a CT Scan conducted in the civil hospital. When Lt Col. Dinesh Singh Dod was about to be taken out for CT Scan at about 1300 hrs, he suddenly lay down on bed

and became unconscious. He was immediately taken out to the Army Hospital R&R and reached there at about 1300 hrs. On the emergency gate, it took full 10 minutes for the stretcher to be brought to car and the medical attendants were standing as mere spectators. He regained some consciousness and tried to get out of the vehicle in a disoriented manner but fell face down on the stretcher. In the emergency room, the same DMO who attended the patient in the morning was present. There was no oxygen available which could be managed after 10 minutes. Petitioner's husband after few minutes went into Coma from which he never recovered. He suffered 3 seizures in the emergency room itself which was brought to the notice of DMO and DMO decided to conduct CT Scan.

The CT Scan showed massive haemorrhage and accumulation of blood in the brain after which Lt Col. Dinesh Singh Dod was shifted to the ICU at 1500 hrs. A Senior Neuro Physician came to the ICU at 1630 hrs to examine Lt Col. Dinesh Singh Dod who informed the petitioner that her husband's condition was critical and far gone. At 1900 hrs, a team of 3 Neuro surgeons called the petitioner and expressed their inability to do anything to save Lt Col. Dinesh Singh Dod. By this time, he had been in hospital for five and half hours or so. The doctors also mentioned to the petitioner that "madam you have brought to your husband too late and there was only 1% chance of your husband's survival". Petitioner informed the Neuro Surgeon that her husband was brought to this hospital in the morning itself and she was advised to take him home. Then doctors said that "had they seen the patient in the morning itself, the chances of recovery would have been 99%". Petitioner rang to the HOD, Neurosurgery of a reputed civil hospital seeking his advice. Then petitioner signed the consent form for the operation and for

MR Angiography which was required to pin point where the aneurysm had haemorrhaged. Lt Col. Dinesh Singh Dod was taken to the Intervention Centre. The team of three doctors then proceeded to perform surgery at 2230 hrs, on Lt Col. Dinesh Singh Dod to clip the aneurysm and release the pressure in the brain due to the hemorrhage. It took 9 hrs from the time of arrival at the emergency room, the second time round at the Premier Medical Institution of the Indian Armed Services, Army Hospital Research and Referral. On 22.03.2010 at 1530 hrs, Lt Col. Dinesh Singh Dod was declared clinically dead after having brain surgery on 14.03.2010 night and being in ICU for 9 days in the night on 22.03.2010. However, a great act of bravery was shown and Lt Col. Dinesh Singh Dod's body was taken in for organ harvesting for welfare of other people.

Thereafter a high level enquiry was conducted and in that enquiry Maj Gen S.A. Cruze, MG (Med) in paragraph no. 9 of his report dated 19.03.2010 observed that *".....However in view of the clinical presentation in the morning patient could not have been admitted to ensure further observation. In this regard DMO(s) and Medicine Resident have erred"*. It was further observed that *"the following officers who attended to the patient in the morning should be suitably counselled for not admitting the patient in the morning of 14 Mar 2010 : (a) MR-6768 L Lt Col Manoj Kumar Datta, DMO; (b) MR-8477 K Maj Vivek Tiwari, Junior DMO; (c) MR-8730 A Maj S.K. Srivastava, Resident Medicine on call"*.

This petition came before us and after going through the medical report, we found that the inquiry is nothing but an act of white wash and an attempt to help the doctors who attended the patient at the relevant point of time. We passed a detailed order on 22.09.2011 and directed that a fresh

inquiry should be conducted by a team of three senior doctors and statements of the petitioner and three officers who brought the patient to the hospital may be recorded and then a proper report of inquiry may be sent to us. In compliance of the said order dated 22.09.2011, an inquiry was conducted and a detailed board proceedings have been placed before us by the learned counsel for the respondents.

In the board proceedings, statements of 12 witnesses including the petitioner were recorded. The findings have been recorded by the Presiding Officer and Members of the Board and in that they have given detailed analysis and ultimately concluded their opinion. In the opinion of the Board, it is mentioned that *“Lt Col Manoj Kumar Dutta, DMO with his five years’ experience as a physician could have suspected the possibility of sub-arachnoid hemorrhage as one of the diagnostic possibilities. However, since he entertained only the possibilities of syncope and hypoglycaemia, he did not consider the need of getting a CT scan done or admitting the patient.”* In paragraph no. 5, Board of Officers has opined that *“suspicion of sub-arachnoid hemorrhage and management accordingly or admission for observation could have probably altered the further course of events”*. Finally, in the paragraph no. 8, it is opined that *“on the morning of 14 March 2010, the patient probably had sentinel headache/minor aneurismal bleed and may have had better chances of recovery with intervention, but in the afternoon he had major aneurismal bleed with bleak chances of survival even with the best interventions.”*

Learned counsel for the petitioner has tried to persuade us that this is a case of gross negligence which affected the whole life of the petitioner and a young blooming career has been cut short by this event. We have full

sympathy with the petitioner and her family members and after going the findings of the Board of Officers, we are sorry to say that the doctors who attended the patient seems to have not realized the seriousness of the disease. It is true that with their short experience, the doctors have tried to workout the possibilities and possibilities were ruled out by ECG and blood pressure. After that they thought that it is Syncope and TIA and patient was given some pain killers medicines for relief of headache and was advised to be taken home. However, as per medical report which has now been produced before us shows that there was medical sheet recorded that there was a headache on account of mild tenderness in the occipital region, throbbing and loss of consciousness. They also found that there is Syncope and TIA and it is recorded in the medical sheet placed before us. If there was a TIA, then doctors should have kept the patient for some time in the hospital for observation and watch the development as per findings given by the Board of Officers but they relieved the patient with some pain killer and basic treatment. This appears to be a case of a plain and simple negligence on the part of doctors. Though they were inexperience but once the DMO with the five years experience suspected TIA, he should have kept the patient for sometime for observation. This is also opined Dr. Pathak and Dr. Gill, two Senior Neurosurgeons who observed that if the patient had been kept under observation, things would have been different.

In this connection, learned counsel for the petitioner has invited our attention to the certain observations from the medical literature in which it is recorded that a timely surgical intervention could be of great help. The fact remains that if a proper care would have been bestowed by the doctors attending the patient perhaps the results could have different. In this case,

when a senior doctor like DMO was their, he should have immediately taken a proper step or could have obtained opinion of Neurosurgeon and had undertaken the exercise of CT Scan. Be that as it may, the fact remains that as per unanimous opinion given by Dr. Pathak and Dr. Gill and findings recorded by the Board of Officers, if the patient would have been put under observations and given a proper treatment in time, perhaps his life could be saved. Therefore, from these facts, the negligence on the part of the doctors who attended the patient is inevitable. It may not be criminal one. It may be because of lack of experience. But the fact of the negligence in the present situation is more than apparent.

In this background, vide report dated 19.03.2010 Maj Gen MG (Med) has observed that the doctors who attended the patient should be suitably counselled for not admitting the patient in the morning of 14.03.2010. A proper action should be initiated against these doctors for showing the lack of care in attending the patient so that it becomes deterrent for other doctors. Army Hospital R&R is an Institute with great reputation and by this kind of event, it loose its reputation. We hope and trust that authority will take serious note of it and impress upon on their doctors that such kind of negligence cannot be condoned and they can be hauled up for such omission and commission on their part.

Now coming to the question of what relief can be granted to the petitioner in the present case. Petitioner has lost her young husband and partly it is because of the negligence on the part of hospital. We, therefore, think it appropriate to grant a compensation in the sum of Rs. 5,00,000/- (Rupees Five Lacs Only) to the petitioner. Petitioner has a young son who is studying in 9th class. It is prayed that petitioner may be allowed to retain the

present accommodation till her son completes his 12th standard examination. Looking to the peculiar circumstances of this case, we direct that authority may consider to allow her to retain the present accommodation and if it is not possible, then a separate family accommodation or any other accommodation available with the respondents may be provided to the petitioner so that she can look after her son till he completes his 12th standard examination. Petitioner is B.A., B.Ed. and a qualified jewellery designer. It is, therefore, prayed that she may be considered for a job in Army School/AWWA Vocation Centre by the respondents. We direct that petitioner may apply with the respondents and she can be considered for a suitable employment as per the provisions of rules. The petition is accordingly disposed of with aforesaid observations. No order as to costs. Copy of order be given dasti as prayed.

**A.K. MATHUR
(Chairperson)**

**S.S. DHILLON
(Member)**

**New Delhi
January 20, 2012
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