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

OA 870/2019 WITH MA 1519/2019 AND MA 468/2020

Wg Cdr G Chandra (Retd) Adm ... Applicant
Versus
Union of India and Ors. ...Respondents

For Applicant : Mr. Ajai Bhalla, Advocate
For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P.MOHANTY, MEMBER (A)

ORDER

MA 1519/2019

Keeping in view the averments made in the application and in the light of the decision in ***Union of India and others*** *Vs.* ***Tarsem Singh*** (2009(1) AISLJ 371), the delay in filing the OA is condoned.

2. MA stands disposed of.

MA 468/2020

3. Counter affidavit has been filed. There being some delay in filing the counter affidavit, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

4. MA stands disposed of.

5. Invoking Section 14 of Armed Forces Tribunal Act, 2007, the instant OA has been filed praying for grant of disability pension to the applicant for disabilities assessed @30% rounded off to 50%.

6. The factual matrix of the case is that the applicant was commissioned in the Indian Air Force on 23.01.1976 and prematurely retired on 05.09.2003. During the Release Medical Board conducted prior to his retirement, he was found to be suffering from disabilities (i) Essential Hypertension @30% for 2 years and (ii) Obesity @ 1-5% for life and his medial category was permanently downgraded to A4G3(P), while his disabilities were held to be Not Attributable Nor Aggravated (NANA).

7. The initial claim of the applicant for the disability pension was rejected by the Competent Authority and the same was conveyed to the applicant vide Dte letter no. AirHQ/99797/4281/Dis/O/DAV-1 (B) dated 07.08.2019. Aggrieved by the aforesaid rejection, the applicant has filed this OA.

8. Learned Counsel for the Applicant stresses that the disabilities were detected starting from November, 2011 after more than 22 years of Air Force service due to continuous service stress, and strain of Air Force service, dietary compulsion of

service and being posted to different field areas including High Altitude Area and lack to time for proper rest, exercise and walking wherein the causal connection of the disability is clearly established with the Air Force service.

9. Placing reliance on the judgement of the Hon'ble Supreme Court in ***Dharamvir Singh v. UOI & Ors [2013 (7) SCC 36],*** Learned Counsel for applicant argues that no note of any disability was recorded in the service documents of the applicant at the time of the entry into the service, and that he served in the Air Force at various places in different environmental and service conditions in his prolonged service, thereby, any disability at the time of his service is deemed to be attributable to or aggravated by military service.

10. Learned Counsel argues that the fact that the applicant was obese has no implication whatsoever on the onset of disabilities, and that the weight is a factor which keeps on fluctuating with time, and it can increase or decrease with time, therefore, not having any implication anyhow on the disability of hypertension.

11. Per Contra, Learned Counsel for the Respondents submits that under the provisions of Rule 153 of the Pension Regulations for the Indian Air Force, 1961 (Part-I), the primary condition for the grant of disability pension is invalidation out of service on account of a disability which is attributable to or aggravated by Air

Force service and is assessed @ 20% or more.

12. Relying on the aforesaid provision, Learned Counsel for respondents further submits that the aforesaid disabilities of the applicant were assessed as "neither attributable to nor aggravated" by Air Force service and not connected with the Air Force service and as such, his claim was rejected; thus, the applicant is not entitled for grant of disability pension due to policy constraints.

13. Ld. Counsel further argues that the weight of the applicant was 78 kgs in 1998, and that gradually gained weight and by the time of onset of the disability, applicant was overweight by around 21.5 kgs, purely due to dietary indiscretion, lack of exercise and a sedentary lifestyle, and his own lack of health consciousness, hence, the disabilities cannot be held attributable to or aggravated by service as he is solely responsible for his unreasonable weight gain in violation of the service requirements of maintaining physical fitness at all times.

14. On the careful perusal of the materials available on record and also the submissions made on behalf of the parties, we are of the opinion that it is not in dispute that the extent of disabilities (i) was assessed to be more than 20% which is the bare minimum for grant of disability pension in terms of Regulation 153 of the Pension Regulations for the Indian Air Force, 1961 (Part-I). However, disability (ii) Obesity @1-5%, being well below the

mandatory requirement does not warrant our interference. Now, the only question that arises in the above backdrop is whether the first disability - Essential Hypertension suffered by the applicant was attributable to or aggravated by military service.

15. With regard to contentions of the applicant that the disability of the applicant was held to be aggravated by the Re-Cat Medical Board dated 05.08.1998, we find that the said disability has been held to be not aggravated due to service and strain of service in the initial medical board dated 09.07.1998 post onset of the disability, while the Re-Cat Medical Boards dated 06.03.2000, 06.03.2002, 27.06.2003, 05.09.2003 and the Release Medical Board have clearly held the disability to be not aggravated. In view of the same, we are of the opinion that either the Re-Cat Medical Board dated 05.08.1998 has not considered the assessment done by the previous medical board dated 09.07.1998 or has considered the aggravation factor independent of the previous medical board, thereby leading to discrepancy among the Re-Cat medical boards of the applicant.

16. That apart, even considering that the disability has its onset in Srinagar, being a field posting, and that he has been again posted to the same posting for approximately 3 months after 3 years of the onset of his disability, we cannot overlook the fact that the applicant has been extraordinarily obese since 1980.

17. We find that the applicant is overweight ranging between 21.5 to 36 kgs in the period from 07.10.2014 to 27.05.2017 with his actual weight ranging between 88.5 -103 Kgs as against the Ideal weight of 67 Kgs. As far as onset is concerned, we find that the onset of the disability is in the year 1997, prior to which the applicant is constantly overweight by 18 kgs on 01.04.1986 to 17 kgs on 21.09.1997 just prior to the onset of the disability, which is extraordinarily obese and way above the permissible weight limit. Needless to say, the applicant has been overweight since 20.03.1980, whereby, the disability of Hypertension is clearly linked to the applicant being obese.

18. We have further analyzed the subsequent Re-categorization Medical Boards and we find the same trend, with the applicant not reducing the weight even after slew of directions advised by the medical experts including brisk walking, jogging and reducing the weight. However, we observe that the weight has not been reduced, thereby, clearly showcasing that onset of disability is the result of the applicant being alarmingly overweight, and therefore, the argument that the applicant suffered the disability due to stress and strain of the service is wholly unfounded on the simple reasoning that the organization cannot be held liable for the own actions of the applicant.

19. We cannot shy away from the fact, that the disability -

Essential Hypertension is due to interplay of metabolic and lifestyle factors and failure in maintaining the ideal body weight which can be managed by regular exercise and restricting diet, and the fact that the applicant is alarmingly overweight signifies that the applicant has remained obese over a period of time, thereby, himself inviting the disability, and in such a case, it would be grossly unjustified for us to ignore the aforesaid facts.

20. Before concluding, it is relevant to point out that the association of obesity and hypertension has been recognized since the beginning of the twentieth century when blood pressure was first measured in populations, and this relationship between body weight and blood pressure was demonstrated prospectively in several studies in the 1960s. Appreciation of the clinical significance of obesity-related hypertension has grown substantially over this same time period, to the point where obesity is recognized as a major cause of high blood pressure, and the combination of obesity and hypertension is recognized as a preeminent cause of cardiovascular risk.

21. Epidemiological data unequivocally support the link between body weight and blood pressure, thus indicating greater body weight as one of the major risk factors for high blood pressure. Likewise, higher BMI is also associated with increased risk for development of hypertension over time. Hypertension is a

complex phenotype that arises from numerous genetic, behavioural and even social origins, and obesity is one of the most prevalent risk factors for its development.

22. Regardless of its etiology, however, hypertension is a highly prevalent and highly significant risk factor for the development of all manifestations of cardiovascular disease, including coronary heart disease, stroke, heart failure, aortic and peripheral arterial disease, and valvular heart disease.

23. The importance of lifestyle management in the treatment of patients with obesity-related hypertension cannot be misunderstood. Adoption of a healthy lifestyle facilitates weight loss, increases responsiveness to antihypertensive medications and produces independent beneficial effects on cardiovascular risk factors.

24. That apart, the officers in the Armed Forces are required to maintain a discipline, when it comes to healthy lifestyle, which is specified in the rules and regulations specified for the permissible weight limit. Applying the above parameters to the case at hand, we are of the view with respect to disability - Essential Hypertension there is no denial from the fact that if the claimant is himself not responsible enough to control the factors which are well within his voluntary control, he cannot be allowed to garner benefit of such beneficial schemes and provisions.

25. Therefore, in view of our analysis, the OA is liable to be dismissed.

26. Consequently, the O.A. 870/2019 is dismissed.

27. No order as to costs.

Pronounced in the open Court on 18 day of March, 2024.

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

(LT. GEN. C.P. MOHANTY)
MEMBER (A)

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