

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

**O.A. No. 1061 of 2023**

**In the matter of :**

**Ex JWO Ramveer Singh**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant : Shri Praveen Kumar, Advocate**

**For Respondents : Mr. R.S. Chillar, Advocate**

**CORAM:**

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

**ORDER**

Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA and the reliefs claimed in Para 8 read as under:

- (a) *Direct the respondents to grant the disability element @60% and rounding off the same to 75% for life to the applicant with effect from 01 Jan 2022 i.e. the date of discharge from service with interest @12% p.a. till final payment is made.*

*(b) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.*

### **BRIEF FACTS**

2. The applicant, having been found medically and physically fit after thorough medical examination, was enrolled in the Indian Air Force on 14.05.1985 and was discharged from service on 31.12.2021 in permanent low medical category. The Release Medical Board held on 22.06.2021 assessed the applicant's disabilities '(i) Primary Hypertension (Old) @ 30% (ii) Dyslipidemia (Old) @ 5% (iii) CAD-IWMI, TVD, PCI TO LCX/POBA TO LAD DONE @ 30% for life and (iv) Impaired Glucose Tolerance @ 15% for life, with composite assessment of disabilities @ 60% for life and held the same as 'neither attributable to nor aggravated by military service' (NANA). Based on the recommendations of the RMB, the disability pension has been denied to the applicant.

3. The initial claim of the applicant for grant of the disability pension was rejected by the AOC AFRO and the said decision was

communicated to the applicant vide letter No. Air HQ/99798/1/640680/12/21/DAV(DP/RMB) dated 18.04.2022 with an advice that in case, the applicant is not satisfied with the decision of the respondents, he may prefer an appeal to the Appellate Committee within six months from the date of receipt of the above mentioned letter. The first appeal preferred by the applicant was rejected by the First Appellate Committee and communicated to the applicant vide Air HQ letter No. Air HQ/99798/5/640680/1<sup>st</sup>Appeal/DP/AV-III dated 28.08.2023 considering the disabilities as neither attributable to nor aggravated by military service. Aggrieved by this, the applicant has filed the present OA on 13.04.2023. In the interest of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(2)(b) of the AFT, Act 2007.

#### **CONTENTIONS OF THE PARTIES**

4. The learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fully fit mentally and physically and no note of disability was made in his medical record at the time of entering the service

and any medical disability contracted by him during the course of his service should be treated as being attributable and aggravated by the stress and strain of his service. The learned counsel explained about the stressful and challenging conditions of service undertaken by the applicant during his service tenure. The learned counsel submitted that the applicant was posted at various stations (Peace and Field) and had served in tough and different weather and environmental conditions in his career and discharged all assigned duties with utmost dedication in a well-disciplined and professional manner. The learned counsel for the applicant further submitted that when the applicant was posted to Leh he used to work on aircraft, he was responsible for inspecting, installing, trouble shooting, repairing and maintain the avionic equipments including radar, navigation and missile control systems and he alone handled and carried out these strenuous duties for around three years. The learned counsel further submitted that the applicant developed the disability of Primary Hypertension soon after he participated in Kargil war. Therefore, discharging duties for a prolonged period in such strenuous and challenging

conditions of service with tremendous mental and physical pressure, the applicant's health got adversely affected and thus as a ramification of his tough duties and service conditions, the applicant was found to be suffering from 3 more diseases viz. Dyslipidemia, Coronary Artery Disease and Impaired Glucose Tolerance.

5. The learned counsel for the applicant further contended that the instant matter is squarely covered by a catena of judgments of the Hon'ble Supreme Court such as ***Dharamvir Singh Vs. Union of India & Ors. [2013 (7) SCC 316]***, ***Union of India and Ors. Vs. Rajbir Singh [(2015) 12 SCC 264]***, ***Civil Appeal No. 418/2012 titled as Union of India & Ors. Vs. Ram Avtar and CA-605/2010 titled Sukhvinder Singh Vs. Union of India (2014 STPL9(web)468 SC)*** and the orders passed by this Tribunal and submitted that the respondents' action in denying him the grant of the disability pension is unjustified and unlawful, when the disabilities recorded by the RMB occurred during the military service and were caused due to stress and strain of service. The learned counsel, therefore, prayed that the disabilities in question may be held to be

attributable to/aggravated by military service and that the disability pension may be granted to the applicant.

6. *Per contra*, the learned counsel for the respondents contended that the applicant is not entitled to the relief claimed since the RMB, being an Expert Body, found the disabilities as being "Neither Attributable to Nor Aggravated by Military Service". The learned counsel further contended that the applicant was a reformed smoker and he developed all these disabilities on account of being a smoker. While rejecting the disability element of pension to the applicant, the respondents have given detailed reasons for not assessing the disabilities as attributable to or aggravated by military service as the applicant had no exceptional stress and strain of service and the disabilities were conceded as neither attributable to nor aggravated by military service in terms of Paras 47 and 26 of Chapter VI of Guide to Medical Officers (Military Pensions) 2002, amendment 2008. The learned counsel submitted that since the applicant's disabilities do not fulfill one of the twin conditions in terms of Regulation 153 of the Pension Regulations for the Air Force, 1961 (Part-I) as the same were assessed as neither

attributable to nor aggravated by military service, and therefore, the applicant is not entitled to the grant of the disability pension and the OA thus, deserved to be dismissed.

### ANALYSIS

7. On the careful perusal of the materials available on record and also the submissions made on behalf of the parties, we find that the applicant has suffered from four disabilities viz. '(i) Primary Hypertension (Old) @ 30% (ii) Dyslipidemia (Old) @5% (iii) CAD-IWMI, TVD,PCI TO LCX/POBA TO LAD DONE @30% for life and (iv) Impaired Glucose Tolerance @15% for life, with composite assessment of disabilities @60% for life. In so far as, the disabilities of 'Dyslipidemia' @5% for life and 'Impaired Glucose Tolerance' @15% for life are concerned, the disabilities are assessed below 20% and do not fulfil the twin criteria as per Rule 153 Pension Regulations for IAF, 1961 (Part-I) and hence are not admissible.

8. As regards, the disabilities of the applicant "Primary Hypertension" and "Coronary Artery Disease" are concerned, the onset of the disabilities *qua* the applicant was in July

2001 and October 2012 respectively. He contracted his first disability i.e. Primary Hypertension almost after 16 years of his service in the Indian Air Force and a bare perusal of the records of the applicant reveals that the applicant was a smoker which is evident in Summary of Case and Opinion dated 11.11.2009 placed as Annexure R-1 of the counter affidavit and the applicant was advised to do isotonic exercises regularly and to have low fat and low salt meals. The relevant part of the Summary of case and Opinion of the applicant reads as under:-

**“PRESENT STATUS –Asymptomatic, Smoker”**

thus, it is clear that the applicant was a smoker till the year 2009 and the onset of Primary Hypertension occurred in 2001. It is well known fact and proven by medical science that smoking can lead to ongoing complications and long-term effects on your body systems, smoking can increase the risk of certain health conditions over years. Whether smoked or chewed, tobacco is dangerous to health. Tobacco products contain unsafe substances, from acetone and tar to nicotine and carbon monoxide hence, the occurrence of the disability Primary Hypertension can be considered as a ramification of

the applicant being a smoker and cannot be attributable to military service.

9. In support of abovementioned fact it is essential to advert to scientific literature available in public domain such as <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8619602/> published by National Library of Medicine on 10.11.2021 accessed on 17.01.2024 which read as under:-

***“In this way, the onset of hypertension is affected by not just one factor but multiple factors, including both alcohol intake and smoking.***

***Many past studies identified alcohol as one factor that worsens hypertension. In these studies, a dose-response relationship between alcohol consumption and hypertension was specifically noted. On the other hand, the relationship between smoking and hypertension was not found to be significant. However, a transient increase in blood pressure while smoking cigarettes, as well as findings supportive of a causal association of smoking burden with a higher resting heart rate, were noted, despite how no direct relationship between smoking and hypertension has been documented. Furthermore, numerous studies on the risks of cardiovascular disease (stroke and heart disease) have found that alcohol and smoking raise by several fold the risk of cardiovascular diseases. In these studies, alcohol, smoking, and hypertension are all factors similarly affecting the outcome of cardiovascular diseases. Some previous studies have investigated the relationship between hypertension and both alcohol and smoking, but none, to our knowledge, have***

*focused on the synergistic health effects of the two together on hypertension.”*

10. In so far as the disability of “CAD-IWMI, TVD, PCI TO LCX/POBA TO LAD DONE” is concerned, it is pertinent to mention that the RMB assessed the disability @ 30% for life and considered it as neither attributable to nor aggravated by military service. Furthermore, Para 47, Chapter VI of the Guide to Medical Officers (Military Pensions), 2008 reads as under:-

*47. Ischaemic Heart Disease (IHD) IHD is a constitutional disease.....*

*X X X X X X X X X*

*There would be cases where neither immediate nor prolonged exceptional stress and strain of service is evident.*

*In such cases the disease may be assumed to be the result of constitutional factors, heredity and way of life such as indulging in risk factors e.g. smoking. Neither attributability nor aggravation can be conceded in such cases.”*

It is essential to advert on the observations in Para 11-13 of our order dated 21.12.2023 in OA 2361/2019 in **Gp Capt Alok Goel(Retd) Vs Union of India & Ors.** to the effect:

*“11. The medical aspects of smoking and heart disease and vascular disease is available in open domain, such as NHLBI, NIH article on <https://www.nhlbi.nih.gov/health/heart/smoking> updated on March 24, 2022, as is available on the internet, to the effect that smoking is harmful to nearly every organ in the body, including heart, blood vessels, lungs, eyes, mouth, reproductive organs, bones, bladder and*

digestive organs and thus smoking is a major risk factor for many diseases including heart disease; any amount of smoking, even occasional smoking, can cause damage to heart and blood vessels; smoking also increases risk for peripheral artery disease (PAD); when plaque builds up in the arteries that carry blood to the head, organs, arms, and legs and people have an increased risk for coronary heart disease, heart attack and stroke. Another medical review on the webpage of MEDICAL NEWS TODAY published on January 6, 2023 and on the website at <https://www.medicalnewstoday.com/articles/can-smoking-cause-a-stroke>, also states:

*“Smoking increases the risk of stroke because it causes inflammation and damage to the blood vessels and can lead to a build-up of plaque in the arteries. This makes it harder for the heart to pump blood. Smoking also impacts circulation throughout the body by constricting small arteries”.....*

*“Tobacco smoke contains thousands trusted sources of toxic and cancer-causing chemicals that pass from the lungs into the bloodstream when a person inhales it. These chemicals alter and damage cells and increase the risk of stroke and other cardiovascular diseases”.*

12. Thus, in view of scientific articles in print media and internet indicate that people who are into heavy smoking are more likely to have heart attacks, high blood pressure, blood clots and other disorders of the cardiovascular system. Since there is medical evidence that smoking increases the risk of heart attacks including other diseases related to blood vessels and despite the same, if one decides to smoke out of his free will despite a statutory warning printed on the cigarette packet with the applicant in the instant case having also been reported to have consumed alcohol the night before the incident in question, we do not consider it appropriate to set aside the decision of the RMB in not conceding attributability or aggravation by service and declaring the diseases of the applicant as NANA.”

“13. ~~XXXXXXXXXXXX~~

It is well known and also indicated in various reviews available on the internet that heart attacks and strokes are closely related. One such review article on <https://www.healthgrades.com/right-care/stroke/heart-disease-and-stroke-whats-the->

*connection updated on April 21, 2021 as available on the internet suggests to the effect :*

*“Heart disease and stroke may seem like different diseases, but they’re actually closely related and caused by the same disease process in your arteries.”.....*

*“Atherosclerosis is a slow build-up of fatty plaque inside your arteries. Plaque can build up at the same time in the arteries that supply blood to a person’s heart and brain; atherosclerosis narrows your arteries and reduces blood supply to your heart and brain. This makes it more likely that a blood clot will form and completely block blood flow. When a clot forms in the arteries of your heart, it causes a heart attack. When a clot forms in your brain, it causes a stroke.”*

11. In the instant case in so far as the disability of Coronary Artery Disease is concerned which had its onset in 2012, it is essential to mention that since the applicant, was a smoker till 2009, the harmful effects of smoking on the applicant and the damaged caused to him due to smoking till 2009 cannot be overlooked even if, he was not a smoker in the year 2012. Therefore, the disability of CAD of the applicant cannot be attributable to military service.

12. Thus, in view of the circumstances of the instant matter, we do not find any infirmity in the opinion of the Release Medical Board denying the disability element of pension to the applicant for both the disabilities being neither attributable to nor aggravated by military service and the applicant thus is not entitled to the grant of the

disability element of pension for which the applicant is himself responsible due to his history of being a smoker till 2009.

### CONCLUSION

13. In view of the aforesaid analysis and the parameters referred to above, there being no infirmity in the opinion of the RMB, we hold that the applicant is not entitled to any relief and thus the OA 1061/2023 stands dismissed.

14. There is no order as to costs.

Pronounced in the open Court on this 16 day of May, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (J)

/nmk/