

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

149.

OA 1371/2022 WITH MA 1810/2022

Ex NC (E) Sat Pal Singh Balmiki	.....	Applicant
Versus		
Union of India & Ors.	.....	Respondents

For Applicant	:	Mr. Ved Prakash, Advocate
For Respondents	:	Mr. Satya Ranjan Swain, Advocate

CORAM

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

ORDER  
05.01.2024

Learned counsel for the applicant makes a fair statement that the applicant would be only praying for the disability pension with regard to the disability Primary Hypertension and does not press for other disabilities.

2. Arguments heard.
3. Reserved for orders.

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[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

Neha

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**Ex NC(E) Sat Pal Singh Balmiki**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant : Mr. Ved Prakash and**

**Mr. Devendra Kumar, Advocate**

**For Respondents : Mr. Satya Ranjan Swain, Advocate**

**CORAM :**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**

**HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

**ORDER**

**MA 1810/2022**

This is an application filed under section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 398 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of **UoI & Ors Vs Tarsem Singh 2009(1)AISLJ 371** and in **Ex Sep Chain Singh Vs Union of India & Ors (Civil Appeal No. 30073/2017** and the reasons mentioned in the application, the MA 1810/2022 is allowed and the delay of 398 days in filing the OA 1371/2022 is thus condoned. The MA is disposed of accordingly.

2. **OA 1371/2022**

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

- (a) ***Quash the Impugned letter No. Air HQ/99798/1/818498/11/20/DAV(DP/RMB) dated 11.11.2021.***
- (b) ***Direct respondents to grant disability element of pension duly rounded off to 75% w.e.f his date of discharge.***
- (c) ***Direct respondents to pay the due arrears of disability element of pension with interest @ 12% p.a. from the date of retirement with all consequential benefits..***
- (d) ***Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.***

**BRIEF FACTS**

3. The applicant was enrolled in Indian Air Force on 26.08.1986 and discharged from service on 30.11.2020 under the clause "On attaining the age of superannuation" after rendering 34 years and 82 days of regular service. The applicant was found fit to be released in low medical category A4G3(P) comp, for the disabilities of (i) Primary Hypertension

(Old) (ii) Intracerebral Hemorrhage with (Lt) Hemiparesis (Old) and (iii) Type 2 Diabetes Mellitus (Old). The applicant was subjected to a Release Medical Board (RMB) on 02.11.2020 whereby the percentage of composite disability was assessed @ 55.2% rounded to 60% for life, however, the net qualifying percentage for the disability was nil for life as the disability was adjudged as neither attributable to nor aggravated by military service.

4. During the course of hearing on 05.01.2024, the learned counsel for the applicant made a fair statement that the applicant would be only praying for the disability pension pertaining to only one ailment i.e. Primary Hypertension (Old) and that the prayer made for the grant of the disability element of pension for the disabilities (ii) Intracerebral Hemorrhage with (Lt) Hemiparesis (Old) and (iii) Type 2 Diabetes Mellitus (Old) are not pressed. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% for life as is evident from the medical records.

5. On adjudication, the AOC AFRO upheld the recommendations of the RMB and rejected the disability pension claim vide letter no. RO/3305/3/Med dated 17.08.2021. The outcome of the same was communicated to the applicant vide letter no Air HQ /99798 /1/818498 /11 /20 /DAV (DP/RMB) dated 11.11.2021 with an advice that he may prefer an appeal to the Appellate Committee within six months from the date of receipt of letter. Instead of filing an appeal, the applicant sent a legal notice-cum-representation dated 02.12.2021 to the respondents and when nothing was heard from the respondents, the applicant filed the instant OA. In the interest of justice, in terms of Section 21(1) of the AFT Act, 2007, we take up the same for consideration.

### **CONTENTIONS OF THE PARTIES**

6. The learned counsel for the applicant submitted that the applicant joined the IAF on 26.08.1986 and was discharged from the service on 30.11.2020 in the rank of NC(E) after rendering 34 years, and 82 days of long service in the Indian Air Force.

7. The learned counsel for the applicant submitted that he was subjected to a thorough medical examination conducted by the medical board at the time of his entry into service and was found medically fit to join the service in Indian Air Force and was posted to various Air Force units in varied geographical conditions.

8. The learned counsel for the applicant added that in addition to conditions of service frequent changes in weather and social environment at different geographical locations were the main causes of stress and strain on the applicant.

9. The learned counsel for the applicant placed reliance on the verdict of the Hon'ble Supreme Court of India in case of ***Dharamvir Singh Vs Union of India & Others*** (Civil Appeal No. 4949/2013); (2013 7 SCC 316, ***UOI & Ors. Vs. Rajvir Singh***, (2015) 12 SCC 264, ***UOI & Ors Vs. Angad Singh Titaria***, (2015) 12 SCC 257, and ***Hon. Flt. Lt. P.S. Rohilla Vs. Union of India***, (Civil Appeal No. 5840/2011).

10. The learned counsel for the applicant placed reliance on the orders passed by Armed Forces Tribunal, Principal Bench



at New Delhi in case of **Ex Sub Dharam Singh Vs Union of India & Ors**, in OA 1111/2018, **Ex Sgt Ajay Kumar Sharma vs. UOI & Ors.** in OA 1676/2018, and **Ex CHERA Somnath Sahoo Vs. UOI & Ors.** in OA 753/2018, **Sub Dharmendra Kumar Jha Vs. Union of India** in OA 360/2013 and **Ex MWO RA Singh Vs. UOI** in OA 674/2014, wherein reliefs were granted to the similarly situated applicants in those cases.

11. Per contra the respondents submit that the Primary Hypertension disability is basically a lifestyle related disorder with onset in peace station. The learned counsel further submitted that there was no delay in diagnosis / Treatment of the applicant for the said disease. The learned counsel also submitted that prior to onset of the disability, the applicant has served only in peace stations since October 2015, and there has been no close time association of military service with onset and progression of the disability and hence, the disability is NANA as per Para 43 Chapter VI of GMO 2008.

12. The learned counsel for the respondents also submitted that the applicant was found overweight and was advised to reduce his weight. The learned counsel for the respondent submitted the weight chart of the applicant which reads as under:-

<b>Date</b>	<b>Type of Med Exam</b>	<b>Actual Weight in KG</b>	<b>IBW (In KG)</b>	<b>BMI Kg/m<sup>2</sup></b>	<b>Advice</b>
<b>02.07.1985</b>	<b>Initial</b>	<b>56.5</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>22.10.1986</b>	<b>Special</b>	<b>56</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>27.06.2006</b>	<b>Annual</b>	<b>78</b>	<b>-</b>	<b>27.63</b>	<b>To reduce weight by dietary restriction and regular physical exercise.</b>
<b>13.08.2008</b>	<b>Annual</b>	<b>70</b>	<b>63.5</b>	<b>24.8</b>	<b>To reduce weight by regular exercise and dietary control</b>
<b>14.07.2010</b>	<b>Annual</b>	<b>74.8</b>	<b>65</b>	<b>26.1</b>	<b>To reduce weight by dietary restriction and regular physical exercise</b>
<b>21.05.2012</b>	<b>Annual</b>	<b>75</b>	<b>65</b>	<b>26.5</b>	<b>To reduce body weight to ideal by dietary restriction and regular physical exercise</b>
<b>05.06.2013</b>	<b>Annual</b>	<b>79</b>	<b>65</b>	<b>28.01</b>	<b>-</b>



13.11.2015	Initial Med Board	73	65	25.8	-
11.03.2016	Recat	74	65	-	Daily walking 30 min
12.10.2017	Recat	74	65	26.5	-
12.10.2018	Recat	75	65	26.2	-
22.10.2019	Recat	76	65	26.93	-
26.10.2020	Recat	76	65	26.93	-
02.11.2020	Release	76	65	-	-

13. The learned counsel for the respondents submitted that the disability of Primary Hypertension of the applicant is directly related to him being overweight.

14. The learned counsel for the respondents placed reliance on the order of the Armed Forces Tribunal, Principal Bench at New Delhi in the case of **Col (Mrs.) Dropadi Tripathi (Retd.) Vs Union of India & Ors**, in OA 1843 of 2018, decided on 13.04.2023, wherein the claim of disability pension for Primary Hypertension was disallowed because the applicant therein was found to be overweight.

## **ANALYSIS**

15. It is a fact that the applicant vide RMB dated 02.11.2020 has been assessed with the disability of Primary Hypertension @ 30% which has been attributed as NANA by the RMB.

16. A perusal of the weight chart of the applicant along with his Body Mass Index (BMI), reveals that he has been overweight since 2006. The applicant was advised regularly to reduce his weight from June 2006 to November 2020. Even, at the time of the RMB proceedings the weight of the applicant was 76 Kg, which is more than 10% above the ideal weight.

17. The publication released by World Health Organization titled "Hypertension" assessed through internet on 16.03.2023 was examined by us and which reads to the effect:-

**"Hypertension (high blood pressure) is when the pressure in your blood vessels is too high (140/90 mmHg or higher). It is common but can be serious if not treated.**

**People with high blood pressure may not feel symptoms. The only way to know is to get your blood pressure checked.**

**Things that increase the risk of having high blood pressure include:**

- older age
- genetics
- being overweight or obese
- not being physically active
- high-salt diet
- drinking too much alcohol

#### Risk factors

- Modifiable risk factors include unhealthy diets (excessive salt consumption, a diet high in saturated fat and trans fats, low intake of fruits and vegetables), physical inactivity, consumption of tobacco and alcohol, and being overweight or obese."

18. This bulletin of WHO specifically brings out the effect of overweight/obesity on hypertension. Additionally, this Tribunal, while dealing with disability pension for disabilities 'Obesity and Hypertension' in O.A No 1656/2019, titled ***Ex HFO Gyanendra Singh vs Union of India & Ors***, has dismissed the case on the ground of the applicant being overweight on merit which order was also upheld by the Hon'ble Supreme Court in Civil Appeal Diary No. 21017/2019 decided on 08.07.2019.

### CONCLUSION

19. In view of the aforesaid analysis and the parameters referred to above, and the fact that the applicant was overweight prior to the onset of the hypertension and the

correlation between Primary Hypertension and of being overweight, we are of the view that the weight of the applicant is a contributory factor towards the onset of the primary hypertension and the applicant is thus not entitled to the grant of the disability element of pension. We are not inclined to grant any relief to the applicant and the OA 1371/2022 stands dismissed.

There is no order as to costs.

Pronounced in the open Court on this day of <sup>H</sup>18 January, 2024.

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)

Pooja