

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

OA 1497/2018 with MA 2024/2019

In the matter of :

Hav Kuldeep Singh (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. S.S Pandey, Advocate

For Respondents : Mr. K.K Tyagi, Sr. CGSC

CORAM:

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14, the applicant has filed this application and the reliefs claimed in Para 8 read as under:-

"(a) To call for the records based on which the release medical board has held the invalidating disability of the Applicant 'Annulo Aortic Ecstasia with Severe Aortic Regugitation' as Neither Attributable to nor aggravated by military service and thereafter quash the same;

(b) To direct the respondents to pay disability pension to the Applicant @60% as assessed by the RMB to be enhanced to 75% after applying the principles of broad banding w.e.f. 31.10.2014 along with arrears with interest @18% per annum;

(c) Issue such other order/direction as may be deemed appropriate in the facts and circumstances of the case."

7/2018

Kuldeep Singh (Retd.)

BRIEF FACTS

2. The applicant was enrolled in the Indian Army on 25.02.1997 and discharged from the service on 31.10.2014 on medical ground being placed in medical category lower than SHAPE-1 after rendering 17 years and 08 months and 07 days of regular service". The Release Medical Board dated 07.08.2014 held that the applicant is fit to be discharged from service in low medical category S1H1A1P2E1 (P) Permt for the disability Annulo Aortic Ectasia with Severe Aortic Regurgitation @60% for life while the net qualifying element for disability pension was recorded as Nil for life on account of both the disabilities having been assessed as neither attributable to nor aggravated by military service.

3. On adjudication, the competent authority upheld the recommendations of RMB and rejected the disability pension claim of the applicant which was communicated to the applicant vide letter No. RNE/DP/2892887 dated 25.03.2015 with an option that he may prefer an appeal to the Appellate Committee within six months from the date of receipt of letter.

4. The applicant submitted the First Appeal dated 31.07.2015, which has till date not been responded to by the respondents. Aggrieved by this, the applicant has filed the instant OA. In the interest of justice, in terms of Section 21(2) of the AFT Act, 2007, we take up the same for consideration.

CONTENTIONS OF THE PARTIES

5. Placing reliance on the judgment of the Hon'ble Supreme Court in **Dharamvir Singh Vs. UOI & Ors** [2013 (7) SCC 36], the learned counsel for the applicant submitted that no note of any disability was recorded in the service documents of the applicant at the time of his entry into the service, and that the applicant served in the Army at various places in different and difficult environmental and service conditions in his prolonged service and thus thereby, any disability that arose during his service has to be deemed to be attributable to or aggravated by military service.

6. The learned counsel for the applicant also placed on the order of AFT (PB) in the case of **Ex Sgt Girish Kumar Vs. Union of India** (OA No. 1439/2016), decided on

01.12.2017 wherein similarly situated personnel was given relief.

7. *Per contra*, the learned counsel for the respondents submitted that the sanction of disability pension at the time of discharge from service is based on fulfillment of essential conditions as laid down in terms of Para 173 of the Pension Regulations for the Army, 1961 (Part -I), wherein the disability should be either attributable to or aggravated by the military service and the minimum assessment for disabilities mandatorily is required to be 20% or more. The learned counsel for the respondents further submits that since the applicant's disabilities were declared NANA by the RMB, thus the applicant is not entitled to the grant of the disability element of pension.

ANALYSIS

8. Having heard both sides, the only issue that requires to be adjudicated is whether the applicant, for whom RMB held his ID Annulo Aortic Ectasia with Severe Aortic Regurgitation @60%, not attributable to or aggravated by military service is entitled to the grant of disability element of pension or not.

9. With regard to the disability in question i.e. 'Annulo Aortic Ectasia with Severe Aortic Regurgitation', it is pertinent to mention herein that after perusal of available scientific literature in public domain such as <https://stanfordhealthcare.org/medical-conditions/blood-heart-circulation/annuloaortic-ectasia.html> published by Standford Medicine accessed on 06.11.2024 which read as under:-

“Annuloaorticis Ectasia is a dilatation or an enlargement of the ascending aorta, the aortic annulus and/or a loss of function of the aorta. A heart with Annuloaortic Ectasia shows degeneration or changes in appearance and/or loss of function of the aorta that can lead to a number of aortic diseases such as leaking of blood through the aortic valve which is called aortic insufficiency or aortic regurgitation. This causes the blood to flow back to the heart in the wrong direction, and can cause permanent damage. Annuloaortic Ectasia may occur as an isolated condition or as part of a connective tissue disease such as Marfan syndrome or Ehlers Danlos syndrome. Annuloaortic Ectasia can also occur with aging and hypertension.”

hence, the contention of the applicant that the disability in question has causal connection with the performance of the military service for the grant of disability pension is misconceived, as nothing has been shown on the records of the present OA with regard to the nature of duties which could have caused the said disease. In this regard, we may refer to sub clause D of Para 63 of the Guide to Medical

Officers (Military Pensions), 2002 amendment 2008 (hereinafter referred to as 'GMO (MP) 2008'). The same reads as under:-

"63. Peripheral Vascular Diseases

(d) Arterial aneurysms. These can be true or false aneurysms. Aortic, peripheral and visceral arterial aneurysmal disease is usually degenerative in etiology and not attributable. Other causes of aneurysms are collagen disorders, dissections, infective and post traumatic. Atherosclerosis and hypertension are important risk factors. Post-traumatic aneurysms are attributable."

10. In the present case, the applicant had not suffered with any trauma/infection etc. and there is no record to show that he has been a case of hypertension. Therefore, from the aforesaid provisions, it is clear that the disability 'Annulo Aortic Ectasia with Severe Aortic Regurgitation' is a not connected with military service. In view of this, it is apparent that the disability of the applicant has no nexus with service and has no causal connection with the military service since the applicant's disability has no relationship with the performance of any military duty. The RMB has, therefore, rightly assessed the disability of the applicant i.e. 'Annulo Aortic Ectasia with Severe Aortic Regurgitation' as neither attributable to nor aggravated by service.

11. In view of the facts and 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 the said disability being neither attributable to nor aggravated by military service and thus the applicant is not entitled to the grant of the disability element of pension.

CONCLUSION

12. In view of the aforesaid analysis and the parameters referred to above, the OA 1497/2018 stands dismissed being devoid of merits. Consequently, pending miscellaneous application(s) also stands closed.

13. There is no order as to costs.

Pronounced in the open Court on this 12 day of
November, 2024.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL / DHIREN VIG]
MEMBER (A)**

/nmk/