

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

135.

OA 356/2022 with MA 441/2022

Ex Sgt Ram Singh

..... Applicant

Versus

Union of India & Ors.

..... Respondents

For Applicant : Mr. Virender Singh Kadian, Advocate

For Respondents : Mr. Y P Singh, Advocate

CORAM

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

ORDER
10.01.2024

MA 441/2022

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in Union of India and others Vs. Tarsem Singh (2008) 8 SCC 648, the same is allowed condoning the delay in filing the O.A.

2. MA stands disposed of.

OA 356/2022

3. 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%.

4. The factual matrix of the case is that the applicant was commissioned in the **Indian Air Force** on **04.10.1995** and retired on **31.10.2018**. During the Release Medical Board conducted prior to his retirement, he was found to be suffering from disabilities (i) Primary Hypertension @30% (ii) Obesity (old) @ 1-5% for life and his medial category was permanently downgraded to A4G4(P), while his disabilities were held to be Not Attributable Nor Aggravated (NANA).

5. 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. Air HQ/99798/1/748799/10/18/DAV (DP/RMB) dated 02.11.2018. Aggrieved by the aforesaid rejection, the applicant has filed this OA.

6. Ld. Counsel for the Applicant stresses that the applicant suffered the disability due to stress and strain of military service and required to be tread as attributable to /aggravated by military service. It was further stated that the applicant had served at many places in different kind of climate and geographic conditions.

7. 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.

8. Ld. 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.

9. 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.

10. 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.

11. Ld. Counsel further argues that the weight of the applicant was 80 kgs in the year 2005, and he gradually gained weight and by the time of onset of the disability, applicant was overweight by around 28 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.

12. 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), & (ii) were assessed to be less 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), therefore, not warranting our interference. Now, the only question that arises in the above backdrop is whether the second disability - Primary Hypertension suffered by the applicant was attributable to or aggravated by military service.

13. Weight chart of the applicant is as follows:-

Date of Med Exam	Type of Exam	Actual Weight	Ideal Weight		BM I	Remarks
25 Oct 05	Annual	80	62.5	28	-	To reduce weight by regular exercise and balanced diet.
01 Mar 06	Annual	78	66	21.21	27.68	To reduce weight by regular exercise and balanced diet.
24 Oct 07	Annual	81	67	21	28.82	To reduce weight by regular exercise and diet control.
22 May 08	Initial Med Board	85	67	28	29.4	Freshly Detected Primary Hypertension and Overweight with Lipidaemia.
17 Nov 08	Recategorisation	82	64	-	28.2	To reduce weight by Dieting and regular exercise

21 May 09	Recate gorisati on	82	62	-	28. 2	To reduce weight by dieting and regular exercise
06 May 10	Recate gorisati on	90	64	37. 5	31. 14	To reduce weight by dieting and regular exercise
13 May 11	Recate gorisati on	95	64	48. 43	32. 87	Low Calorie, low fat diet Daily Brisk Walk for 1 hour per day.
07 May 12	Recate gorisati on	78	67	46. 26	33. 91	Frshly detected Dyslipidemia low Saturated fat diet. Absitence from alcohol Regular Physical Exercise. Reduce weight.
26 Oct 12	Recate gorisati on	88	67	31. 34	30. 44	Low calorie, low fat diet. Daily Brisk Walk fro 01 hor/day.
13 Sep 13	Recate gorisati on	85	67	>3 SD	29. 41	Low Calorie, low fat diet. Diet Brisk Walk for 01 hour/day.
06 Sep 14	Recate gorisati on	98	67	>3 SD	33. 09	Low Calorie, low fat diet. To reduce body weight by diet, Exercise and lifestyle precautions.
07 Sep 15	Recate gorisati on	93	67	-	32. 17	-
12 Sep 16	Recate gorisati	92	67	-	31. 17	-

	on					
13 Feb 17	Recate gorisati on	92	67	~	30. 79	~
19 Sep 17	Recate gorisati on	92	67	~	32. 17	~
01 May 18	Recate gorisati on	91	67	>+ 3S D	31. 48	~

14. We find that the applicant is constantly overweight ranging between 18 to 28 kgs in the period from 25.10.2005 to 01.05.2018 with his actual weight ranging between 78-98 Kgs as against the Ideal weight of 67 Kgs. We have further analysed the subsequent Re-categorisation 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 organisation cannot be held liable for the own actions of the applicant.

15. We cannot shy away from the fact, that the disability ~ PHT 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.

16. 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.

17. 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, behavioral and even social origins, and obesity is one of the most prevalent risk factors for its development.

18. 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.

19. 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.

18. Applying the above parameters to the case at hand, we are of the view with respect to disability - PHT, 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.

20. Therefore, in view of our analysis, the OA is liable to be dismissed.
21. Consequently, the O.A. 356/2022 is dismissed.
22. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Priya

