

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

OA 1476/2019

Ex SCPO Rajender Singh

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate

For Respondents : Mr. Avdhesh Kumar Singh, Advocate

CORAM :

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

O R D E R

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 direct the respondents to produce all medical records of the applicant.***
- (b) ***To direct the respondents to grant disability pension to the applicant from the date of discharge.***
- (c) ***To direct the respondents to grant broad banded disability pension from 30% to 50%.***
- (d) ***To direct the respondents to issue a corrigendum PPO with the necessary changes pertaining to the disability the broad banded of the disability pension.***
- (e) ***To direct the respondents to pay arrears of disability pension and broad banded disability pension along with interest @ 12%.***

- (f) ***To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.***

BRIEF FACTS

2. The applicant was enrolled in Indian Navy on 27.01.1982 and was discharged from service on 31.01.2010. The applicant was found fit to be released in low medical category S2A2(P) PMT, for the disabilities of (i) "Primary Hypertension assessed @ 30% for life and (ii) Dyslipidmia nil for life. The applicant was subjected to a Release Medical Board (RMB) on 08.08.2009 whereby the percentage of composite disabilities was assessed @ 30%, however, the net qualifying percentage for the disabilities was nil for life as both the disabilities were adjudged as neither attributable to nor aggravated by military service.

3. The applicant's claim for the grant of disability pension was rejected by the Competent Authority vide letter no. PEN /600/LRDO /1:01/2018/111349-T dated 27.01.2010. The applicant preferred first Appeal against rejection of his disability pension claim, which was adjudicated and rejected by the Appellate Committee and informed the applicant vide its letter No. PN /0134/DP/1210/18 dated

11.06.2019. Aggrieved by the decision of the respondents, the applicant has filed the instant OA. In the interest of justice, we take up the same for consideration.

CONTENTIONS OF THE PARTIES

4. The learned counsel for the applicant submitted that the applicant joined the Indian Navy on 27.01.1982 and was discharged from the service on 31.01.2010 in the rank of SCPO after serving for more than 28 years of qualifying service.

5. 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 Navy.

6. The learned counsel for the applicant submitted that the prolonged stressful working conditions, and various environmental factors has immensely contributed to the onset and aggravation of the applicant's disability

7. The learned counsel for the applicant submitted that the instant case is squarely covered by the judgments of the Hon'ble Supreme Court in the case of ***Dharamvir Singh v.***

Union of India and others (2013) 7 SCC 316, , CA No 418/2014 in case of **Union of India & Ors. Vs Ram Avtar** decided on 10.12.2014.

8. Per contra the learned counsel for the respondents submits that the Primary Hypertension disability is basically a lifestyle related disorder with its onset in peace station. The learned counsel further submitted that prior to onset of the disability, the applicant has served only in peace stations since 1982 and the onset of the disability occurred in September 2007 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 of GMO (Military Pension) 2008.

9. The learned counsel for the respondents also submitted that the applicant was overweight and the disability of Hypertension of the applicant is directly related to his overweight condition.

10. The learned counsel for the respondents placed reliance on the orders passed by the Armed Forces Tribunal, Principal Bench at New Delhi in 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

11. It is a fact that the applicant vide RMB dated 08.08.2009 has been assessed with the disability of Primary Hypertension @ 30% which has been attributed as NANA by the RMB.

12. A perusal of the Part-II Medical Examination of the RMB reveals that the applicant was overweight at the time of the RMB as the actual weight of the applicant has been indicated as 87 kg against an ideal weight of 77.5 kg. Thus, at the time of RMB, the applicant was overweight by 9.5 kg (12.25% above ideal weight) which indicates that the applicant failed to maintain the ideal weight which can be managed by regular exercise and restricted diet.

13. There are various medical reviews available suggesting that those who are overweight or obese, are at risk of having high blood pressure in life. The publication released by World Health Organization titled "Hypertension" available on the

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.”**

This bulletin of WHO specifically brings out the effect of overweight/obesity on hypertension. Thus, it can be considered that the Primary Hypertension can be the result due to applicant being overweight.

14. 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 merit which was also



upheld by the Hon'ble Supreme Court in Civil Appeal Diary No. 21017/2019 decided on 08.07.2019.

CONCLUSION

15. In view of the aforesaid contentions and the parameters referred to above, and the fact that the applicant was overweight and the correlation of Primary Hypertension with weight, 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 disability element of pension. We are not inclined to grant any relief to the applicant and the original application stands dismissed.

16. There is no order as to costs.

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



(JUSTICE RAJENDRA MENON)
CHAIRPERSON



(REAR ADMIRAL DHIREN VIG)
MEMBER (A)