

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

O.A. No. 1590 of 2018

In the matter of :

Ex Nk Satpal Singh

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri Virender Singh Kadian, Advocate

For Respondents : Shri Avdhesh Kumar Singh, 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) *Quash and set aside the impugned letter no. 14375140F/LC/17/NE-5(C) dated 19.02.2019. And/or*
- (b) *Direct the respondents to treat the disability of the applicant as attributable to or aggravated by military service and grant him disability element of pension and benefit of broad banding. And/or*
- (c) *Direct the respondents to pay the due arrears of disability pension with interest @12% p.a. from the date of discharge with all the consequential benefits.*
- (d) *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 mentally and physically fit after thorough medical examination, was enrolled in the regiment of Artillery on 04.08.2001 and retired from service prematurely on 31.08.2017 at his own request on extreme compassionate grounds. At the time of premature retirement from service, the applicant was in permanent low medical category HIAI P2E1 (Permanent) for the disability 'Acute Pancreatitis'. The Release Medical Board held on 01.07.2017 assessed the applicant's disability Acute Pancreatitis @20% for life while the qualifying element for the disability was recorded as NIL for life on account of disability being treated as neither attributable to nor aggravated by military service.

3. The initial claim of the applicant for grant of the disability pension was rejected by the competent authority and the said decision was communicated to the applicant vide letter dated 19.12.2017 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 letter. The first appeal dated 03.05.2018

preferred by the applicant was rejected by the Appellate Committee and communicated to the applicant vide letter dated 11.09.2018 considering the disability as neither attributable to nor aggravated by military service. The applicant had also earlier preferred Legal notice-cum-Representation dated 05.02.2018, and the same was also rejected vide letter dated 19.02.2018. Aggrieved by this, the applicant has filed the present OA on 18.09.2018. In the interest of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(2) 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 entire 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 and thereby, any disability that arose during his service has to be deemed to be attributable to or aggravated by military service. The learned counsel for the applicant submitted that the said disability of the applicant is may be due to continuously drinking of un-distilled water and unhygienic food while serving in field/CI Ops areas and the said disability of the applicant is required to be considered as attributable to/aggravated by military service.

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.** in Civil Appeal No. 4949/2013, **Union of India and Anr. Vs. Rajbir Singh** in Civil Appeal No. 2904/2011, in Civil Appeal No. 5605/2010 titled as **Sukhvinder Singh vs. Union of India**

& Ors, and in Civil Appeal No. 418/2012 titled as **Union of India & Ors. vs. Ram Avtar**, wherein similarly situated personnel was given relief.

6. *Per contra*, the learned counsel for the respondents contended that the applicant is not entitled to the relief claimed. The learned counsel further contended that the applicant was observed to be a significant alcohol consumer and he may have developed Acute Pancreatitis on account of consuming alcohol. 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 Para 59 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 173 of Pension Regulations for the Army, 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 are of the view that it is not in dispute that the extent of disability was assessed to be 20% which is the bare minimum for grant of disability pension in terms of Regulation 173 of Pension Regulations for the Army, 1961, Part-I. The only question that arises is whether disability suffered by the applicant was attributable to or aggravated by military service or not.

8. Para 59 of the Guide to Medical Officers (Military Pensions) 2002, amendment 2008, (GMO (MP) 2008), stipulates the conditions for assessing attributability of 'Acute pancreatitis' and is reproduced as hereunder:

"59. Pancreatitis. Inflammation of Pancreas results due to chronic alcoholism, cholelithiasis, viral infections e.g. mumps, post surgery sequelae, post (ERCP) and also due to certain drugs. Attributability can be considered in those cases with preceding history of surgery, drug therapy, (ERCP) and concurrent history of mumps. Alcoholic pancreatitis is to be considered neither attributable nor aggravated due to service.

Gall Stone pancreatitis should be considered aggravated if dietic compulsions due to service conditions exist."

9. In the instant case, the disability of Acute Pancreatitis had its onset in 2013. It is essential to mention that the applicant, has been observed as significant alcohol consumer much prior to the onset of the disability as per the clinical assessment of the medical specialist given in the RMB. The harmful effects of alcohol on the applicant and the damaged caused to him due to alcohol consumption cannot be overlooked and according to Para 59 of the GMO (MP) 2008, it is evident that alcoholic pancreatitis is to be considered as neither attributable to nor aggravated by military service. Therefore, the disability of Acute Pancreatitis of the applicant cannot be considered as attributable to or aggravated by military service.

10. 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 the said disability 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 for consuming alcohol which may have resulted in acute pancreatitis and for not maintaining a healthy lifestyle.

CONCLUSION

11. In view of the aforesaid analysis and the parameters referred to above, there being no infirmity in the opinion of the RMB, the OA 1590/2018 stands dismissed being devoid of merits.

12. There is no order as to costs.

Pronounced in the open Court on this 8th day of July, 2024.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (J)**

/nmk/