

**COURT No.1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA 1634/2019**

**Air Cmde Rashid Zafar Qureshi VSM (Retd) ... Applicant**  
**Versus**  
**Union of India and Ors. ... Respondents**

**For Applicant : Mr. Baljeet Singh, Advocate**  
**For Respondents : Mr. Neeraj, Sr. CGSC**

**CORAM**

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

**ORDER**

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant filed this OA praying to direct the respondents to accept the disability of the applicant as attributable to/aggravated by military service and grant disability element of pension @70% rounded of to 75% with effect from the date of discharge of the applicant; along with all consequential benefits.

2. The applicant was commissioned in the Indian Air Force on 18.08.1986 and retired on 30.06.2018. The Release Medical Board dated 09.04.2018 held that the applicant was fit to be released from service in composite low medical category A4G2 for the disabilities - (i) Vesicoureteric Reflux

(Lt) (Optd) @15-19% for life (ii) Chronic Interstitial Nephritis (Lt) Kidney (Old) @40% for life and (iii) Renal Parenchymal Hypertension (Old) @30% for life with composite assessment @70% for life while the qualifying element for disability pension was recorded as NIL for life on account of disabilities being treated as neither attributable to nor aggravated by military service (NANA).

3. The claim of the applicant for grant of disability pension was rejected and subsequently, his first appeal and second appeal were rejected as well stating that the aforesaid disabilities were considered as neither attributable to nor aggravated by military service. Aggrieved by the aforesaid rejection, the applicant has approached this Tribunal.

4. Placing reliance on the judgement of the Hon'ble Supreme Court in Dharamvir Singh Vs. 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.

5. Per contra, while the learned counsel for the respondents has not disputed the facts of the case regarding the disability, he highlighted the Opinion of the Release Medical Board to the effect that the aforesaid disability of the applicant was assessed as "neither attributable to nor aggravated".

6. We have heard the learned counsel for the parties and have perused the record produced before us. However, we find it pertinent to refer to the Regulation 153 of the Pension Regulations for the Army, 1961 (hereinafter referred to as 'the Regulations'), which deals with the disability pension of P.B.O.Rs, being relevant in the present case, is reproduced as follows:

*"153. Unless otherwise specifically provided a disability pension consisting of service element and disability element may be granted to an individual who is invalided out of service on account of disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20 per cent or over. The question whether a disability is attributable to or aggravated by military service shall be determined under the rule in Appendix II."*

7. A perusal of the aforesaid Regulation 153, therefore, reveals that the disability pension is payable to an individual who is discharged from service on account of a disability which is attributable to or aggravated by military service and assessed at 20% or more. The question whether the disability

is attributable to or aggravated by military service is to be determined under the rules contained in Appendix II. The said Appendix II contains the Entitlement Rules for Casualty Pensionary Awards, 1982 as amended from time to time. Prior thereto, there had been other Entitlement Rules for Casualty Pensionary Awards. Rule 4 of the Entitlement Rules for Casualty Pensionary Awards, 1982, being relevant on the point, is re-produced as follows:

*“4. Invaliding from service is a necessary condition for grant of disability pension. An individual who, at the time of his release under the Release Regulations, is in a lower medical category than that in which he was recruited will be treated as invalidated from service. ICO/OR and equivalents in other services who are placed permanently in a medical category other than 'A' and are discharged because of alternative employment suitable to their low medical category can be provided, as well as those who having been retained in alternative employment out are discharged before its completion of their engagement will be deemed to have been invalidated out of service.”*

8. At this point, with respect to attributability and aggravation, we find it relevant to refer to Para 69 to 74 of the Chapter VI of the Guide to Medical Officers, 2002 (as amended in 2008), reproduced as under:

**69. Acute Renal Failure.**

*It is a rapid deterioration in renal function sufficient to result in accumulation of nitrogenous wastes in the body. The common causes are:*

*(a) Acute Glomerulonephritis :*

- Due to post streptococcal infection.*
- Occult visceral sepsis*
- Infective endocarditis*

*-SLE, vasculitis*

*(b) Acute Tubulo-interstitial Nephritis :*

- Acute pyelonephritis, chronic pyelonephritis*
- Chronic UTI*
- Acute tubular necrosis*
- Arteriolar nephrosclerosis*
- Analgesic nephropathies*
- Nephrotoxins e.g. antibiotics and radiography contrast media*
- Transplant rejection*
- Multiple myeloma, leukaemia*

*(c) Acute Tubular Necrosis:*

- Hypovolemia due to burns, hemorrhage*
- Vascular pooling in anaphylaxis, Sepsis and drugs -Decreased cardiac output in CVS failure.*
- Haemolysis in malaria*
- Rhabdo-myolysis in trauma and heat stroke*
- Infection e.g. Diarrhoea, Septic abortion, peritonitis, pancreatitis*
- Drugs - contrast media, anaesthetic agent*

*(d) Calculus:*

*Sixty to eighty percent of adults suffering from acute glomerulonephritis recover over a period of 2 to 4 years. Twenty to forty percent of the cases have residual hypertension and asymptomatic urinary abnormalities.*

*Majority of Acute renal failure cases recover. Only ten percent of cases progress to chronic renal failure.*

*If Acute renal failure follows trauma on duty, infection hypovolemia, drug therapy, attributability can be conceded. When associated with multi-system disease, aggravation due to service can be examined based on his service profile.*

*70. Chronic Renal Failure.*

*Chronic renal failure is a syndrome resulting from progressive and irreversible destruction of nephrons. This syndrome is considered when azotaemia lasts for more than 3 months. The causes are:*

- (a) Chronic glomerulonephritis i.e. end stage of glomerular diseases with infection central to pathogenesis e.g. post streptococcal GN, MPGN, Focal sclerosing glomerulonephritis.*
- (b) Chronic pyelonephritis*
- (c) Calculus*
- (d) Hypertension*
- (e) Diabetes mellitus.*

*Recovery is poor as the disease is progressive irrespective of the cause and the course is unpredictable.*

*Attributability/Aggravation can be awarded taking into account the cause and also service profile which would have adversely affected the course of disease.*

#### *71. Rapidly Progressive Renal Failure.*

*A separate entity which invariably progresses to chronic renal failure within a period of one to two years if course is not halted by therapy. The causes are :*

*(a) Acute and sub acute infections e.g. post streptococcal glomerulonephritis.*

*(b) Multi system disease eg SLE, Vasculitis, PAN, HS Purpura, malignant hypertension.*

*(c) Idiopathic primary glomerular disease e.g Idiopathic crescentic GN, Membranoproliferative GN, Berger's Disease.*

*(d) Acute tubulo-interstitial disease due to infection and multi system disease.*

*Diseases due to infection acquired during service are acceptable as attributable. Aggravation due to service can be examined, in case due to multi system disease and vasculitis taking into account the service factor modifying the course of disease.*

#### *72. Asymptomatic Urinary Abnormalities.*

*It is characterized by mild degree of hematuria, pyurea casts and protenuria below nephrotic range. The causes are due to glomerulonephritis and tubulo interstitial disease.*

*The combination of nephronal hematuria and protenuria suggests worse prognosis than one alone.*

*Course is usually unpredictable and may lead to chronic renal failure. This category of cases are usually detected during routine medical check up.*

#### *73. Nephrotic Syndrome.*

*The syndrome is generally held to be present when a patient demonstrates massive proteinuria, reduced serum albumin, edema and hyperlipidemia. The causes of nephrotic syndrome are:*

*(a) Primary glomerular diseases.*

*Minimal change glomerular disease.*

*Membranous glomerulopathy.*

*Focal Segmental glomerular sclerosis.*

*Mesangio proliferative glomerular nephritis.*

*Membrano proliferative glomerular nephritis.*

*(b) Infection - post streptococcal GN, leprosy, hepatitis B, malaria.*

*(c) Multi system Disease - SLE.*

*- Vasculitis.*

*- Diabetic glomerular sclerosis.*

*If the syndrome is due to infection during service, attributability can be conceded. Primary glomerulonephritis which may arise out of immune complex disease in the absence of infection and septic foci as a precursor to immune phenomenon, aggravation due to service can be examined. Similarly aggravation can be thought of in kidney disorder due to multi system disease taking into account his service profile.*

*(a) Minimal lesion GN recover completely.*

*(b) In membranous glomerulo nephritis, 50% develop chronic renal failure in 25 years.*

*(c) 50% of Focal segmental glomerulo nephritis develop chronic renal failure.*

*(d) 50% of membrano proliferative glomerulo nephritis develop chronic renal failure in few years.*

*(e) Course is variable in mesangio proliferative glomerulo nephritis.*

#### *74. Congenital Diseases of Kidney.*

*Certain congenital diseases such as polycystic disease of kidney, horse-shoe kidney, pelvic-ureteric junction obstruction (hydronephrosis), ectopic kidney, vesico-ureteric reflux, megaureter, ureterocele, retrocaval ureter, ureteral duplication, and duplication of collecting system escape detection at the time of enrolment and many manifest later in service as asymptomatic urinary abnormality, hypertension and frequent urinary tract infection. Such kidneys may be easily injured if hydronephrotic or ectopically located. Aggravation will be considered if there is trauma related to service.*

9. On an analysis of the aforesaid Paras of GMO, 2002, it can be taken into consideration that for disabilities pertaining to Kidney, infection is a precursor for attributability to be established with the military service. Similarly, aggravation can only be considered wherein service factors like posting in HAA could be considered to be aggravating factors.

10. That apart, we find that the applicant was commissioned in the Indian Air Force on 18.08.1986, and the onset of the disabilities is in July, 1987 in a peace station, within less than one year of his service, and the applicant went on to serve in the Air Force post the onset for 32 years. In these circumstances, the possibility of prior existence of the disabilities cannot be ruled out and the aggravation cannot be conceded in absence of any substantiated aggravation factor.

11. It can be concluded from the aforesaid analysis that the disability of the applicant cannot be held to be attributable, in absence of any evidence of infection as well as the posting profile of the applicant does not show any aggravation factors, and thus, the disabilities of (ii) Chronic Interstitial Nephritis (Lt) Kidney (Old) @40% for life and (iii) Renal Parenchymal Hypertension (Old) @30% for life has to be considered neither attributable to nor aggravated by the military service as in the case of the applicant, there is nothing to show that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service.

12. In view of the aforesaid analysis, we are of the view that the present OA is devoid of merit and therefore, is liable to be dismissed.

13. Hence, the OA 1634/2019 is dismissed.

14. No order as to costs.

15. Pending miscellaneous applications, if any, stand closed.

Pronounced in the open Court on 18<sup>th</sup> day of October, 2024.

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

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

Akc