

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

OA 1803/2019

Ex Dfr Ranjeet Singh ... Applicant

Versus

Union of India and Ors. ... Respondents

For Applicant : Mr. V.S. Kadian, Advocate

For Respondents : Mr. Satya Ranjan Swain, Advocate

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 disabilities of the applicant as attributable to/aggravated by military service and grant disability element of pension @50% with effect from the date of retirement of the applicant; along with all consequential benefits. However, at the time of final hearing, the applicant has pressed only for disability (i) Primary Hypertension and (iv) Hypothyroidism.

2. The applicant was enrolled in the Indian Army on 08.07.2000, and discharged on 28.02.2019. The Release Medical Board dated 20.12.2018 held that the applicant was fit to be discharged from service in composite low medical

category for the disabilities - (i) Primary Hypertension @ 30% (ii) Dyslipidemia @1-5% for life, (iii) Obesity @1-5% and (iv) Hypothyroidism @ 20% with composite disability @ 50% for life while the qualifying element for disability pension was recorded as NIL for life on account of disability being treated as neither attributable to nor aggravated by military service (NANA).

3. 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 DSC 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.

4. Per Contra, Learned Counsel for the Respondents submits that under the provisions of Regulation 81(a) and 53(a) of the Pension Regulations for the Army, 2008, 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 military service and is assessed @ 20% or more.

5. 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 military service and not connected with the military service and as such, his claim was rejected; thus, the applicant is not entitled for grant of disability pension due to policy constraints.

6. 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 disability (i) & (iv) were assessed to be above 20% which is the bare minimum for grant of disability pension in terms of Regulation 81(a) and 53(a) of the Pension Regulations for the Army, 2008.

7. It is relevant to note that the applicant is constantly overweight with his actual weight being 97 kgs at the time of his discharge as against the Ideal weight of 71.5 Kgs, thus, falling in obese category with more than 2 SD, with the same trend visible before the onset of both the disabilities under consideration. We find that the applicant is not reducing the weight even after slew of directions advised by the medical experts including brisk walking, jogging and reducing the weight. 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.

8. We cannot shy away from the fact, that the disability - Primary Hypertension 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.

9. Applying the above parameters to the case at hand, we are of the view with respect to disability - Primary Hypertension, 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.

10. As far as disability (iv) - Primary Hypothyroidism is concerned, we find it pertinent to refer to Para 38 of Chapter VI of the Guide to Medical Officers (Military Pensions), 2002 as amended in 2008, reproduced as under:

38. Goitre. Goitres are swellings of thyroid which can be broadly divided into simple goitre and toxic goitre. 32 Simple goitre can be a diffuse or multinodular enlargement of the thyroid. It is likely that sub optimal dietary iodine intake associated with dietary compulsions and employment in localities peculiar to Armed Forces may lead to development of goitre which may present either in euthyroid and hypothyroid state. Sometimes hypothyroid state may develop as an aftermath to ablation of gland to over generous surgery or irradiation and also drug therapy like PAS, lithium carbonate and phenylbutazone. Attributability can be conceded in simple and multi nodular goitre due to iodine deficiency in endemic areas and in hypothyroidism following therapeutic trials.

Toxic goitres are commonly seen in Grave's disease and less commonly in multinodular goitre, sub-acute Dequervain's thyroiditis and adenoma thyroid showing features of toxicity. At times hyperthyroid state may follow therapeutic and diagnostic trial with iodine compounds like anti-arrhythmic drugs e.g. amiodarone, radiographic contrast media and during the course of iodine prophylaxis programme. Grave's disease is an immunologically mediated disease and its onset or course can be aggravated by service conditions such as worry, stress and strain, shock which can precipitate the toxic symptoms. It will be appropriate to concede attributability in hyperthyroidism associated with multinodular goitre and sub-acute thyroiditis and also in post therapeutic and diagnostic trials of iodine and its compounds.

11. On an analysis of the aforesaid provision, we find that it is likely that sub optimal dietary iodine intake associated with dietary compulsions and employment in localities peculiar to Armed Forces may lead to development of hypothyroid state, a situation which is not present in the present case, with applicant's posting profile making it clear that all posting has

been in the peace areas, except one and he has continuously served in peace for approx 9 years continuously in peace area.

12. Therefore, in view of our analysis, we find that the present OA is devoid of merits and is liable to be dismissed.

13. Consequently, the OA 1803/2019 is dismissed.

14. No order as to costs.

Pronounced in the open Court on 29 day of February, 2024

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

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

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OA 1803/2019