

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

96.

OA 2010/2019

Ex ME I Karamvir Singh Yadav Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Ms. Barkha Babbar, Advocate

CORAM

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

ORDER
18.04.2024

OA 2010/2019

Invoking the jurisdiction of this 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) Direct the respondents to grant disability element of pension for all the disabilities duly rounded off to 75% or to conduct Re-survey/Review Medical Board of the applicant for assessing disability percentage of disability No. (i) and to decide the Composite Disability again.

(b) Direct the respondents to pay the due arrears of Pension with interest @12% p.a. with all consequential benefits.

(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.”

2. The applicant was enrolled in the Indian Navy on 30.07.2002 and discharged from service on 31.07.2017.

The applicant submits that he was discharged in low medical category S2A2 (P) PMT for the disabilities, i.e., (i) Metabolic Syndrome ICD .I 43.0,E66.9 and (ii) Coronary Artery Disease ICD I 77.0. However, he was only given disability pension for the disability (ii), i.e., Coronary Artery Disease @ 30% for life.

3. Respondents have filed a counter affidavit, wherein they have stated that the disability (i), i.e., Metabolic Syndrome was conceded as neither attributable to nor aggravated by military service and was held to be a life style disorder as the onset of the disability was in peace area (Delhi) while he was on leave at home station and thereafter was posted at INS TUNIR (Mumbai) which is also a peace area at that time.

4. We find it pertinent to refer to Point 2 of Part-I: Personal Statement as referred to in the Release Medical Board dated 10.03.2017, reproduced as under:

2. Give particulars of any disease ,wounds or injuries from you are suffering

<i>Illness, Wound, Injury</i>	<i>First Started</i>		<i>Rank of Indl</i>	<i>Where treated</i>	<i>Approximate dates and periods treated</i>
	<i>Date</i>	<i>Place</i>			
<i>(I) METABOLIC SYNDROME ICD.I 43.0,E66.9.</i>	<i>JAN 2015</i>	<i>AT DELHI</i>	<i>ME-I</i>	<i>BASE HOSPITAL DELHI CANT.</i>	<i>JAN 2015 (THREE WEEKS APPROX)</i>
<i>(II) CORONARY ARTERY DISEASE ICD I 77.0,Z09.</i>	<i>NOV 2008</i>	<i>VIZAG</i>	<i>ME-I</i>	<i>INHS KALYANI (VIZAG)</i>	<i>FROM 04 SEP 2008 TO 10 NOV 2008</i>

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5. Keeping in view that the aforesaid disabilities were recorded in the Release Medical Examination, but the disability (i), i.e., Metabolic Syndrome has been assessed as NIL, with the fact that the applicant has been released in the Low Medical Category S2A2 (P) PMT, we find it as a fit case for conduct of Re-survey Medical Board.

6. In view of the above, the OA 2010/2019 is allowed and we direct the respondents to conduct the Re-Survey Medical Board of the applicant within a period of two months from the date of the receipt of a copy of this order so as to re-assess the disability and the percentage of the disability, i.e., Metabolic Syndrome and the decision of the Re-Survey Medical Board be communicated to the applicant accordingly.

7. No order as to costs.

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[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

1. Vide our orders of even date, we have allowed the OA. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under

Section 31 of the Armed Forces Tribunal Act, 2007, to the Hon'ble Supreme Court.

2. We find no question of law much less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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