

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

**O.A. No. 2102/2018**

**Maj S Selvarani (Retd.)**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant : Mr. I.S. Yadav, Advocate**

**For Respondents : Mr. Neeraj, Sr. CGSC**

**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 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under :

- (a) To declare the action of the respondents as unjust, arbitrary and illegal; and**
- (b) To quash the order dated 07 Nov 2016 and dated 05 Jan 2018; and**
- (c) To direct the respondent to grant the disability pension 20% and further the benefit of rounding off the disability pension from 20% to 50% (wef 23 Nov 2016 from the date of release from service.)**

- (d) To direct the respondents to commute the disability element of pension and pay the arrears of the difference of disability pension and the commutation so arrived after rounding of the disability to 50%; and**
- (e) To grant an interest of 18% on the delayed payment; and**
- (f) Such further order or orders, direction/directions be passed so as to this Learned Tribunal may deem fit and proper in accordance with law.**

### **BRIEF FACTS**

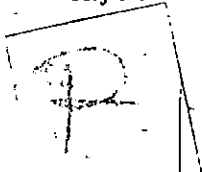
2. The applicant was commissioned in the Indian Army in Army Medical Corps (MNS SSC Officer) on 23.11.2002 and was released from service on 23.11.2016. Before her release, the applicant was subjected to a Release Medical Board (RMB) held on 06.06.2016. The RMB found the applicant to be fit to be released in low medical category S1H1A1P3(P)E1, for the disabilities of (i) Obesity @ 1-5% and (ii) Subclinical Hypothyroidism @ 20%, with the percentage of composite disabilities assessed @ 20% for life. However, the net qualifying percentage for the disability pension was Nil for life as both the disabilities were adjudged as neither attributable to nor aggravated by military service.

3. The claim for the grant of the disability pension of the applicant was rejected by the competent authority vide letter No. NS-21150K/MPRS(O)/16/597/AG/PS-4(Imp-I) dated 07.11.2016. The applicant preferred the first appeal dated 01.03.2017 against the rejection of the claim for the grant of disability pension but, the same was also rejected vide AG/PS-4 letter No. NS-21150K/MPRS(O)/142/2017/Appeal/AG/PS-4 (Imp-II) dated 05.01.2018. Against this, the applicant preferred the second appeal dated 21.03.2018 which was also rejected vide letter No. B/38046A/174/2018/2018/AG/PS-4 (2<sup>nd</sup> Appeal) dated 20.03.2019. Aggrieved by the same, the applicant has filed the instant O.A. and thus, 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 at the time of joining the Army, the applicant was declared fully fit medically and physically and no note was made in her medical record to the effect that the applicant was suffering from any disease at that time and, therefore, any medical

disability contracted by her during the course of service should be treated as attributable to and aggravated by the stress and strains of service. The learned counsel for the applicant submitted that during the postings to various places of uncongenial environments, the applicant suffered from medical problems; the applicant was detected to be suffering from Obesity and Subclinical Hypothyroidism and he further submitted that the respondents erred in considering the disability of the applicant as neither attributable to nor aggravated by service and failed to consider the fact that the applicant had performed duties in the stressful and difficult conditions of service with dietary compulsions during her service tenure which put tremendous mental and physical pressure on the applicant and had impacted adversely on the health of the applicant and thus in February, 2015 while the applicant was posted in Tenga, where she was subjected to sub optimal dietary iodine intake associated with dietary compulsions in that area and thus the applicant suffered from Subclinical Hypothyroidism.



5. The learned counsel for the applicant placed reliance on the verdicts of the Hon'ble Supreme Court in the case of **Union of India and others vs. D.S Nakara** AIR 1983 SC 130, Civil Appeal No 4949/2013 titled **Dharamvir Singh Vs. Union of India & Ors** decided on 21.02.2012, **Vijay L. Mehrotra vs State of U.P AIR 2000 SC 2513A** and in the case of **Gorakhpur University and vs. Dr. Shitla Prasad Nagendra and Ors AIR 2001 SC 2433.**

6. Reliance was also placed on behalf of the applicant on the order of this Tribunal passed in OA No. 58 of 2014 in the case of **Savarimuthu Son of Ex Hav A Ashirvatham vs Union of India**, wherein similarly situated personnel was given same relief.

7. *Per contra*, the learned counsel for the respondents contended that the applicant is not entitled to the relief claimed since the Release Medical Board, being Expert Body, after thorough examination of the applicant, found the disability as "Neither Attributable to Nor Aggravated by Military Service" on the ground that the same are constitutional in nature and not connected with service and

that the applicant was managed without any delay. The learned counsel further submitted that the applicant's disability does not fulfill the necessary conditions for being eligible to get disability pension in terms of Regulation 81 of the Pension Regulations for the Army, 1961 (Part-I), thus the applicant is not entitled to disability pension and, therefore, the OA deserved to be dismissed.

#### ANALYSIS

8. We have heard learned counsel for the parties and have also perused the record produced before us.

9. On the careful perusal of the materials available on record and also the submissions made on behalf of the parties, we find that the applicant has suffered from two disabilities viz. (i) Obesity @ 1-5% for life, and (ii) Subclinical Hypothyroidism @ 20% for life. The applicant was diagnosed with the disability 'Subclinical Hypothyroidism' which occurred in February, 2015. Since Subclinical Hypothyroidism relates to an underactive thyroid, a condition in which the thyroid gland does not produce enough of certain crucial hormones, therefore, the disease can happen at any stage of life and

normally tends to happen more towards middle age. The disease is very common and normally relates to lifestyle and congenital unless any specific grounds are given.

10. As per Para 38 of GMO (MP) 2008, for Hypothyroidism attributability can be conceded following therapeutic trials. There is nothing in the medical records of the applicant that suggests that the applicant was under any therapeutic trials and hence attributability of the disability cannot be conceded in the instant case. The GMO (MP) 2008, is silent about the aggravation for Hypothyroidism. Aggravation is only conceded due to stress and strain if the person suffers from Grave's disease. From the open medical literature it is discerned that Hypothyroidism and Grave's disease Hyperthyroidism are two different conditions that affect the thyroid and have different causes, symptoms and treatment. Therefore aggravation based on stress and strain of military service for Hypothyroidism cannot be conceded.

11. For determining the attributability, it would also be helpful to refer to the medical review/article available in the

open domain in respect of various factors which can cause Hypothyroidism. In support of this, the medical review (website page ref. **healthline** -<https://www.healthline.com/health/hypothyroidism>) in relation to the primary hypothyroidism is referred to as under:

**“What causes primary hypothyroidism ?**

*The most common cause of primary hypothyroidism is Hashimoto’s thyroiditis. This is an autoimmune disease that causes your immune system to mistakenly attack your thyroid.*

*You might also develop primary hypothyroidism for a number of other reasons.*

*If you had hyperthyroidism (or overactive thyroid), your treatment may have left you with hypothyroidism. A common treatment for hyperthyroidism is radioactive iodine. This treatment destroys the thyroid. A less common treatment for hyperthyroidism involves the surgical removal of part or all of the thyroid. Both can result in hypothyroidism.*

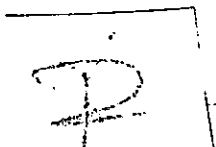
*If you had thyroid cancer, your doctor would have surgically removed your thyroid, or part of it, to treat the cancer.*

*Other possible causes of hypothyroidism include:*

- *insufficient dietary iodine*
- *a congenital disease*
- *certain drugs*
- *viral thyroiditis*

*In some cases, a woman might develop hypothyroidism after giving birth. According to the National Institutes of Health, the disease is most common in women and people over 60 years old.”*

There is also nothing on medical record of the applicant that the deficiency of Iodine in the diet of the applicant led to the



onset of Hypothyroidism when the applicant was posted in Tenga valley being a hilly terrain posting.

12. It is evident that the applicant was diagnosed with obesity in March, 2014 and thereafter it was in February, 2015, almost a year later, she was found to be suffering from Subclinical Hypothyroidism. Even at the time of RMB held in June, 2016, the applicant's weight was recorded as 80 Kg as against the ideal weight of 49.5 Kg, which shows that the applicant has not been able to manage her weight. It is well known that the obesity and hypothyroidism are interlinked, which is available on the open domain like internet by way of various articles/reviews which conclude that the obesity is significantly related to many diseases including hypothyroidism and in some cases losing weight can manage hypothyroidism also; one such article may be referred to as 'NIH - <https://www.ncbi.nlm.nih.gov/articles/>', wherein, after analysis and discussion, it was concluded that obesity was significantly related to hypothyroidism, implying that prevention of obesity is crucial for thyroid disorders.

13. From the above, it is clear that the disability of hypothyroidism of the applicant do not fall within the scope of attributability or aggravation due to military service. We, therefore, find the opinion given by the medical board is justified and thus do not find any infirmity in its proceedings.

### CONCLUSION

14. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is not entitled for grant of disability element of pension. The OA stands dismissed being devoid of merits.

15. There is no order as to costs.

Pronounced in open Court on this <sup>H</sup>14 day of October, 2024.

**[JUSTICE RAJENDRA MENON]**  
**CHAIRPERSON**

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

/Pooja/