

**COURT NO. 2**  
**ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH: NEW DELHI**

**OA 676 / 2019**

**Ex Com I (TAC) Ravindranath**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant : Mr. Ved Prakash, Advocate**  
**For Respondents : Mr. Shyam Narayan, Advocate**

**CORAM :**

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)**  
**HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

**ORDER**

The applicant "No. 136569-K Ex Com I (TAC) Ravindranath"  
vide the present OA makes the following prayers:

*"(a) Quash the Impugned Order No.  
PEN/600/D/LRDO I:07/2018/136569K dated  
25.06.2018.*

*(b) Direct respondents to grant Disability element of  
Pension to the Applicant duly rounded off to 50%  
from his date of discharge i.e 01.08.2018.*

*(c) Direct respondents to pay the due arrears of  
disability element of pension with interest @12% p.a  
from the date of retirement 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 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 28.07.2003 and was discharged from service on 31.07.2018 on expiry of his engagement. Subsequently, he was sanctioned service pension vide PPO No.248201802319 dated 16.07.2018 for qualifying service of 15 years 04 days. At the time of his discharge, he was placed in low medical category S3A2(P) PMT for his disability **"CONGENITAL COMPLETE HEART BLOCK I 44.2"**. The Release Medical Board dated 31.07.2018 assessed the percentage of disablement at 40% for life though opined it to be neither attributable to nor aggravated by military service in terms of Para 22 Chapter VII of the GMO (Military Pensions) 2008.

3. The applicant's claim for grant of disability pension was rejected by the Competent Authority vide letter No. PEN/600/D/LRDO:1/07/2018/136569K dated 25.06.2018 with an advice that he may prefer an appeal against the rejection of the same within six months and the date of receipt of the rejection letter.

4. The said appeal was however not disposed of by the respondents till the institution of the appeal filed on 16.04.2019 which, however, was filed one day before the completion of the period of six months from the date of filing of the first appeal. However, as indicated by the counter affidavit dated 27.09.2019 submitted on behalf of the respondents, the first appeal has not been disposed of. In the interest of justice in terms of Section 21 (1) of the AFT Act 2007, we consider it appropriate to take up the OA for consideration.

5. The onset of the disability is reflected in the RMB as under:-

Illness, wound, injury	First started		Rank of Indl.	Where treated	Approximated dates and periods treated
	Date	Place			
CONGENITAL COMPLETE HEART BLOCK I 44.2	03 Jan 08	VIZAG	Com I (TAC)	INS KHANJAR	04 Jan 08 Approx — 05 months

6. The posting profile of the applicant in Part I in the Personal Statement of the said RMB is as under:-

S. no.	From	To	Place / Ship	P/F (HAA/ Ops/ Sea Service/ others)	S. no.	From	To	Place / Ship	P/F (HAA/ Ops/ Sea Service/ others)
(i)	28/07/03	15/01/04	INS Chilka	P	(ii)	16/01/04	06/11/04	Signal School	P
(iii)	07/11/04	30/06/08	INS Khanjar	F	(iv)	01/07/08	16/04/09	NCB (VZG)	P
(v)	17/04/09	04/04/12	Gomantak	P	(vi)	05/04/12	05/04/15	COMNETCEN (KOC)	P
(vii)	06/04/15	05/04/17	COMNETCEN (MBI)	P	(viii)	06/04/17	Till to date	COMCEN (KAJ)	P

which thus indicates that the onset of the disability of CONGENITAL COMPLETE HEART BLOCK I 44.2 was detected whilst the applicant was posted from 07.11.2004 to 30.06.2008 on board INS Khanjar, a field posting. As per the posting profile of the applicant thereafter and prior to this posting at INS Khanjar, the applicant had not been posted in a field area.

7. The opinion of the Medical Board in Part V of the said RMB is as under:-

<i>Disability</i>	<i>Attributable to service (Y/N)</i>	<i>Aggravated by service (Y/N)</i>	<i>Not connected with service (Y/N)</i>	<i>Reason / Cause / Specific condition and period in service</i>
CONGENITAL COMPLETE HEART BLOCK I 44.2	NO	NO	YES	NEITHER ATTRIBUTABLE NOR AGGRAVATED BY MILITARY SERVICE VIDE PARA 22, CHAPTER VI OF GMO 2008

8. The percentage of disablement put forth the RMB is as under:-

<i>Disability</i>	<i>Percentage of disablement with duration</i>	<i>Composite assessment for all disabilities with duration</i>	<i>Disability Qualifying for Pension with duration</i>	<i>Net Assesment Qualifying for Disability Pension</i>
CONGENITAL COMPLETE HEART BLOCK I 44.2	40% Fourty Percent vide Para 21 (d) (iv) d of GMO 2008 Page no. 76	40%	NIL	NIL

9. It is reflected through the RMB that in response to query nos. 2 and 3 in Part V of the RMB to the effect:-

*"2. Did the disability exist before entering service? NO*

*3. In case the disability existed at the time of entry, is it possible that it could not be detected during the routine medical examination carried out at the time of entry? NO"*

to thus indicate that as per the said RMB, the disability did not exist before the applicant entered service and that it was not possible that the disability could not be detected during a routine medical examination carried out at the time of the entry.

### ***CONTENTIONS OF THE PARTIES***

10. The applicant has contended to the effect that he had joined the Indian Navy on 28.07.2003 in a fit medical category with no note of any disability recorded on the service records of the applicant at the time of enrolment and that thereafter he served the Indian Navy at various places in different environmental and service conditions in his prolonged service and any disability thus arisen during his service in the Indian Navy has to be deemed to be attributable to or aggravated by Military Service.

11. The applicant also submits that even when he underwent the requisite training on enrolment in the Indian Navy, he had been subjected to a thorough medical examination conducted by the board of doctors who had found him wholly fit. The applicant further submits that he remained fit for a period of five years from the date of induction into the Indian Navy and thus submits that it is

apparent and crystal clear there from that the applicant's disability had arisen due to service.

12. Reliance was placed on behalf of the applicant on the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel 1982 with specific reliance on Rules 4, 5, 8 and 9 thereof to contend to the effect that the onus lay on the respondents to establish that the disability had no causal connection with Military Service as there was no note of any disability of the applicant recorded by the respondents at the time of induction of the applicant to the Naval Service and that he had been so inducted in the Naval Service after an appropriate medical examination.

13. The applicant further submits the Release Medical Board has given no reason for opining the disability of CONGENITAL COMPLETE HEART BLOCK I 44.2 as being neither attributable to nor aggravated by military service.

14. Inter alia reliance was thus placed on behalf of the applicant on the verdicts of the Hon'ble Supreme Court in *Dharamvir Singh vs UOI & Ors* (Civil Appeal No. 4949/2013) 2013 AIR SCW 4236 decided on 02.07.2013 with specific observations in Para 28 thereof which reads to the effect:-

*"28. A conjoint reading of various provisions, reproduced above, makes it clear that:*

*(i) Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable or aggravated by military service to be*

determined under "Entitlement Rules for Casualty Pensionary Awards, 1982" of Appendix-II (Regulation 173).

(ii) A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to

be presumed due to service. [Rule 5 r/w Rule 14(b)].

(iii) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally. (Rule 9).

(iv) If a disease is accepted to have been as having arisen in service, it must also be established 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. [Rule 14(c)].

(v) If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in

service. [14(b)].

(vi) If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons. [14(b)]; and

(vii) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the "Guide to Medical (Military Pension), 2002 – "Entitlement : General Principles", including paragraph 7,8 and 9 as referred to above."

15. Reliance was also likewise placed on behalf of the applicant on the verdicts of the Hon'ble Supreme Court in *Union of India and others Vs. Angad Singh Titaria* Civil Appeal No. 11208 of 2011 decided on 24.02.2015, in *Sukhvinder Singh Vs. Union of India and others*, 2014 STPL(Wed) 468 SC (Civil Appeal No. 5605 of 2010) decided on 25.06.2014 and in *Union of India and another*



*Vs. Rajbir Singh* Civil Appeal No. 2904 of 2011 decided on 13.02.2015 to contend to similar effect that the disability that the applicant suffers from which did not exist before induction of the applicant into the Indian Navy has to be held to be attributable to military service in as much as, no reason has been given by the medical board to opine that the disability had no causal connection with military service.

16. The respondents on the other hand contended to the effect that diseases which are congenital, hereditary, degenerative and constitutional in nature may not get detected during routine medical examination carried out at the onset of the enrolment and merely because the disability had its onset during service does not entail that it has to be treated as attributable to service in the Indian Navy unless it is clearly established that the course of the disease was adversely affected due to factors related to the conditions of military service.

17. Inter alia the respondents submit that the Release Medical Board had categorically assessed the disability of the applicant as being neither attributable to nor rather aggravated by military service in terms of para 22 Chapter VI of the GMO (Military Pensions) 2008 and that there is no infirmity in the same nor in the rejection of the disability pension claim of the applicant.

18. The respondents further placed reliance on Regulation 101 of Navy Pension Regulation 1964 to contend to the effect that the disability that the applicant suffers from having been opined to be neither attributable to nor



aggravated by military service clearly does not fall within the ambit of Regulation 101 of Navy Pension Regulation 1964 for the grant of the disability element of pension.

19. The respondents further submit that in terms of Rule 8 of the Entitlement Rules for Casualty Pensionary Awards 1982 attributability/aggravation is to be considered if there is a causal connection between disablement and military service which is certified by the appropriate medical authority and the respondents submit that in the instant case the medical board had found that there was no causal connection between the applicant's disability and military service. The respondents thus prayed that the present OA be dismissed.

#### ***ANALYSIS***

20. In as much as the applicant in the instant case was discharged from the Indian Navy in a low medical category on 31.07.2018, it is the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel 2008 which are applicable to the facts of the instant case.

21. It is further equally essential to observe that para 22 of chapter VI of the GMO (Military Pensions) 2008 stipulates to the effect:-

*"22. **Congenital Heart Disease.** It has been routinely observed that cases of congenital heart diseases like atrial septal defect/Mitral valve prolapse having escaped detection at the time of recruitment become symptomatic and detected very late in service. These will be conceded as neither attributable nor aggravated by military service."*

22. Apparently, there is nothing brought forth on the record in the circumstances of the instant case to refute the contention of the respondents as brought forth by the opinion of the Release Medical board that the disability of the applicant was congenital. In these circumstances in terms of para 22 of Chapter VI of the GMO (Military Pensions) 2008, apparently the applicant is not entitled to the grant of the disability element of pension, in as much as the disability of the applicant is neither attributable to nor aggravated by military service.

23. That the disability of **"CONGENITAL COMPLETE HEART BLOCK I 44.2"** is congenital is brought forth through scientific literature available in the public domain, as per the website of Children's Hospital of Philadelphia (<https://www.chop.edu/conditions-diseases/heart-block>) which states to the effect:-

*"Heart block occurs when there is a delay in the conduction of the electrical impulse through the heart. In most cases, heart block is caused by a problem with the A-V node. There are several types of heart block, including:*

- Complete heart block: The most common type of heart block in children is complete heart block, also called third-degree heart block. In complete heart block, the electrical impulse never gets past the A-V node. The only reason a person can survive is that another, weaker natural pacemaker takes over in the ventricles. The ventricles are able to pump blood out to the body, but more slowly than normal.*
- Congenital complete A-V block: Sometimes children are born with complete heart block (this is called congenital complete A-V block). In some of these cases, the child also has a severe structural heart defect, such as heterotaxy or congenitally corrected transposition of the great arteries. In other cases,*

*congenital heart block occurs because the mother has an autoimmune disorder, such as systemic lupus erythematosus."*

**CONCLUSION**

24. In the facts and circumstances of the instant case, as the disability of "CONGENITAL COMPLETE HEART BLOCK I 44.2" is a congenital disability and neither attributable to nor aggravated by military service, the OA 676 / 2019 is thus dismissed.

25. No order as to costs.

Pronounced in the Open Court on the 9 day of January, 2024.

[REAR ADMIRAL ~~CHHREN~~ VIG]  
MEMBER (A)

[JUSTICE ANU MALHOTRA]  
MEMBER (J)

/AP/