

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

OA 912/2022

MWO (HFL) Surendra Nath Singh (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Rakesh Kumar Yadav, Advocate  
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

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

ORDER

Invoking the jurisdiction under Section 14 of the Armed Forces Tribunal Act, 2007, the instant OA has been filed praying for the following prayers :-

- (a) *to set aside the impugned order/letter vide letter No Air HQ/99798/5/1st Appeal/638499/DP/AV-III dated 12 Nov 2021*
- (b) *to consider the facts and circumstances of the case in the light of above discussed Rules and Regulations as well as settled principles of law enshrined by the Hon'ble Supreme Court in Dharamvir Singh Vs. Union of India & Ors. (supra) and reiterated Umor of India & Anr. Vs. Rajbir Singh (supra, und Union of India Vs Angad Singh Titaria and award disability pension from the date of his discharge te 31 12 2020, along with 10% pa interest on the arrears, as Applicant developed medical problems of PRIMARY HYPERTENSION with 30% disability and CORONARY ARTERY DISEASE, TRIPLE VESSEL DISEASE (OPTD) 30% with composite assessment for all disabilities 50% for life, and was placed in LMC A4G3 (P).*

- (c) *to issue necessary orders to the Respondents to consider the application with composite assessment for all disabilities 50% for life, as disability onset and caused to the Applicant, due to strain and stressful duties, during and while serving in the Flying Units, Operational Preparedness, Working Conditions/ Environment and other secondary duties, which are wholly attributed to service, in terms of Regulation for the IAF 1961.*
- (d) *to award Rs.50,000 towards the cost of litigation, mental agony and harassment to the Applicant.*
- (e) *to pass such other order / orders as this Hon'ble Tribunal may deem fit just & equitable in the facts and circumstances of the case.*

2. The applicant was enrolled in the Indian Air Force on 20.06.1980 and was discharged from service on 31.12.2020. The Release Medical Board (RMB) conducted on 25.03.2020 assessed his disabilities ID (i) Primary Hypertension @30% for life and CAD TVD (Optd) @30% for life both classified as neither attributable nor aggravated by service.

3. The initial claim for disability element of pension was denied by the authority vide letter no. Air HQ/99798/1/63849912/20 /DAV(DP/RMB) dated 09.12.2020 pursuant to which the applicant filed a first appeal vide letter dated 12.11.2021 which was denied stating that both the disabilities were classified as neither attributable nor aggravated by military service. Aggrieved by the aforesaid, the applicant has filed the present OA.

4. Placing reliance on the judgment of the Hon'ble Supreme

Court in Dharamvir Singh Vs. UOI & Ors [2013 (7) SCC 36], learned counsel for the 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, learned counsel for the respondents submits that under the provisions of Rule 153 of the Pension Regulations for the Indian Air Force, 1961 (Part-I), 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 Air Force service and is assessed @ 20% or more.

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

7. 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 was assessed to be 20% which is the bare minimum for grant of disability pension in terms of Regulation 153 of the Pension Regulations for the Indian Air Force, 1961 (Part-I). Now, the only question that arises in the above backdrop is whether the disabilities suffered by the applicant were attributable to or aggravated by Air Force service.

8. It is pertinent to note that at the time of conduct of RMB, the applicant was found to be grossly overweight by around 12 kgs, with an actual weight of 79 kgs as against an ideal weight of 67 kgs. Not to lose sight of the fact that the applicant's posting profile indicates that the applicant was never posted in a field area, and has worked throughout his trade duties as 'Elect/Fit', thereby negating any possibility of aggravation. We cannot ignore the fact that the applicant was grossly overweight at the time of RMB, thus, bringing us to the conclusion that the disabilities - Primary Hypertension & CAD are attributable to his being overweight rather than the stress and strain of service, as asserted by the

applicant. Therefore, we hold that the organization cannot be held liable for the applicant's personal health choices and actions.

9. We cannot shy away from the fact, that the disability, i.e., Primary Hypertension and CAD both are 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 being overweight signifies that he has remained overweight over a period of time, thereby, himself inviting the disabilities, and in such a case, it would be grossly unjustified for us to ignore the aforesaid facts.

10. Applying the above parameters to the case at hand, we are of the view with respect to disabilities of Primary Hypertension and CAD, 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. Therefore, the applicant is not entitled for disability pension for both the aforesaid disabilities of Primary Hypertension and CAD.

11. Based on the abovementioned consideration, the aforesaid OA 912/2022 is dismissed being devoid of merit.

12. No order as to costs.

13. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 5<sup>th</sup> day of December, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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