

**COURT NO. 3**  
**ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**OA 1005/2019 with MA 1675/2019**

**Ex Hav Parte Pradip Vasantrya** ... **Applicant**

**Versus**

**Union of India & Others** .... **Respondents**

**For Applicant** : Mr. Virender Singh Kadian, Advocate

**For Respondents** : Ms. Barkha Babbar, Advocate

**CORAM:**

**HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)**

**HON'BLE MS. RASIKA CHAUBE, MEMBER (A)**

**ORDER**

**MA 1675/2019**

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in ***Union of India and others Vs. Tarsem Singh***[(2008) 8 SCC 648], the MA is allowed condoning the delay of 365 days in filing the OA. The MA stands disposed of.

## **OA 1005/2019**

2. Invoking the jurisdiction of this 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 are read as under:

***“(a) Direct respondents to treat the disability LEFT RENAL MASS assessed @20% for life of the applicant as attributable to/aggravated by military service and grant disability element of pension from the date of retirement of the applicant along with benefits of broad banding. And/or***

***(b) 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.***

***(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.”***

### **BRIEF FACTS**

3. The applicant was enrolled in the Army Ordnance Corps on 20.02.2003 and was discharged from service with effect from 31.05.2018 (Afternoon) under Army Rule 13 (3) III (iv) on

compassionate grounds at his own request before fulfilling the conditions of his enrolment.

4. The applicant while serving with 82 Ammunition Platoon was initially downgraded to Low Medical Category S1H1A1P2(T-24) E1 for six months for the diagnosis "LEFT RENAL MASS BENIGN" with effect from 11.05.2013 vide AFMSF-15 (Ver 2006) dated 11.05.2013. Subsequently, he underwent the following Re-categorisation Board:-

<b>Ser No.</b>	<b>Re-Categorization Medical Board</b>	<b>Medical Category Recommended</b>	<b>Diagnosis</b>	<b>With effect from</b>
(a)	AFMSF-15A (Ver 2006) dated 25 Oct 2013	S1H1A1P2(T-24)E1	LEFT RENAL MASS BENIGN	25 Oct 2013
(b)	AFMSF-15A (Ver 2006) dated 16 April 2014.	S1H1A1P2(Perm) E1	LEFT RENAL MASS TISSUE BENIGN	10 April 2014
(c)	AFMSF-15A (Ver 2006) dated 19 April 2016.	P2(P)	LEFT RENAL MASS TISSUE BENIGN	10 April 2016

5. The Release Medical Board dated 23.04.2018 while released him under medical category S1H1A1P2(P)E1 for the disability "Left Renal Mass" assessed @20% for life further

opined that the disability was neither attributable nor aggravated.

6. The fact was communicated to the applicant vide Army Ordnance Corps Records letter dated 05.07.2018 and he was advised that if he was not satisfied with the decision, he could prefer an appeal to the Appellate Committee on First Appeal (ACFA) within six months from the date of receipt of the letter

7. The applicant submitted First Appeal on 22.09.2018 wrongly mentioned as an Appeal Cum Legal Notice on 15.11.2018 against the rejection of his disability pension claim which was processed to IHQ of MoD (Army) for consideration by the Appellate Committee on First Appeal (ACFA). The Competent Appellate Authority rejected the First Appeal vide Integrated Headquarters of Ministry of Defence (Army) letter dated 06.06.2019.

8. The applicant was advised that if he was not satisfied with the decision of the Committee, he may prefer Second Appeal to Second Appellate Committee on pension (SACP)

through Record Office within six months from the date of receipt of this letter.

9. Before his Second Appeal, could be considered by the Second Appellate Committee on Pension (SACP) the applicant had filed the present original application.

### **CONTENTIONS OF THE PARTIES**

10. Learned counsel for the applicant submitted that he was downgraded to low medical category for the disability "LEFT RENAL MASS" assessed @20% for life. The categorisation Medical Board declared the disability occurred during military service and assessed @20% hence the applicant is entitled for the disability element of pension.

11. It is argued that at the time of entry into service, the applicant was subjected to through medical examination conducted by a Board of Doctors and when found medically fit at the Selection Centre in all respect he was enrolled into the Indian Army.

12. It is further urged that Rules 5 and 14(b) the Entitlement Rules, 1982 provide that in case of discharge from

service in low medical category, there is a codified presumption that any deterioration in health or disability contracted is due to service condition. Further, Rule 18 of the Entitlement Rules clearly states that 'inherent constitutional tendency' is not a disease in itself as is routinely declared by the Medical Boards. Rule 19 provides that if the worsening of a condition persists till the time of discharge, meaning thereby that if the medical category of an individual remains at a worsened stage at time of discharge (i.e., a person remains in low medical category at time of exit from service) then aggravation is to be accepted. Referring to Rule 20(a) it is pointed out that in case nothing is known of the disease then presumption of entitlement should go to applicant, however disabilities are still routinely declared as NANA with reasons such as "idiopathic" or "cause unknown".

13. The learned counsel for the applicant has further placed reliance on the judgments of the Hon'ble Supreme Court in **Dharamvir Singh Vs. Union of India and Ors. [(2013) 7 SCC 316]**, **UOI & Anr. Vs. Rajbir Singh Civil Appeal No.**

**2904/2011**, and **Sukhvinder Singh Vs. Union Of India**

**&Ors**, dated 25.06.2014 reported in 2014 STPL (Web) 468 SC,

14. *Per contra*, learned counsel for the respondents, through the counter affidavit filed, submitted that as per Release Medical Board (RMB) proceedings the applicant was released in Medical Category S1H1A1P2(P) E1 for the disability "LEFT RENAL MASS" and the Medical Authorities also opined that the disability was neither attributable to not aggravated by military service (NANA) being **"ONSET OF THE DISABILITY ON 01 FEB 2013 AT BABINA (UP) (PEACE) LIKELY ETIOLOGY IS NEOSPLASTIC AND NOT RELATED TO SERVICE CONDITIONS. HENCE NANA"**.

15. The respondents further submitted that while rejecting the second appeal filed by the applicant, the SACP has given detailed reasons for rejecting the claim of disability pension. He, therefore, prayed that the OA may be dismissed.

#### **ANAYLSIS**

16. On the careful perusal of the material available on record and also the submissions made on behalf of the

parties, we are of the view that it is not in dispute that the extent of disability assessed by the Medical Board Proceedings dated 23.04.2018, @20% for life and considered it to be neither attributable to nor aggravated by service.

17. In so far as the attributability or aggravation is concerned, which was considered to be NANA by the Medical Board, it is pertinent to mention that in the instant case, the onset of the said disability "**Left Renal Mass**" was in 01.02.2013 at 82 Amn Platoon, C/o 56 APO. It is pertinent to mention that the Guide to Medical Officer (Military Pension), 2008 have no provision for the said disability. The GMO 2008 is silent about the attributability/aggravation for left renal mass. In the instant case, the condition is a benign vascular tumor with no service related factors implicated in its causation. It was detected incidentally. It's etiology is Neoplastic and there is no worsening due to service conditions.

18. The guidelines set out in Chapter-II of the Guide to Medical Officers (Military Pensions), 2002 which set out the

“Entitlement: General Principles”, and the approach to be adopted in such cases. Para 7, 8 and 9 of the said guidelines reads as under :-

***“7. Evidentiary value is attached to the record of a member’s condition at the commencement of service, and such record has, therefore, to be accepted unless any different conclusion has been reached due to the inaccuracy of the record in a particular case or otherwise. Accordingly, if the disease leading to member’s invalidation out of service or death while in service, was not noted in a medical report at the commencement of service, the inference would be that the disease arose during the period of member’s military service. It may be that the inaccuracy or incompleteness of service record on entry in service was due to a non-disclosure of the essential facts by the member e.g. pre-enrolment history of an injury or disease like epilepsy, mental disorder, etc. It may also be that owing to latency or obscurity of the symptoms, a disability escaped detection on enrolment. Such lack of recognition may affect the medical categorisation of the member on enrolment and/or cause him to perform duties harmful to his condition. Again, there may occasionally be direct evidence of***

*the contraction of a disability, otherwise than by service. In all such cases, though the disease cannot be considered to have been caused by service, the question of aggravation by subsequent service conditions will need examination. The following are some of the diseases which ordinarily escape detection on enrolment: (a) Certain congenital abnormalities which are latent and only discoverable on full investigations e.g. Congenital Defect Sacralisation, of Spine, Spina bifida, (b) Certain familial and hereditary diseases e.g. Haemophilia, Congenital Haemoglobinopathy. Syphilis, (c) Certain diseases of the heart and blood vessels e.g. Coronary Atherosclerosis, Rheumatic Fever. (d) Diseases which may be undetectable by physical examination on enrolment, unless adequate history is given at the time by the member e.g. Gastric and Duodenal Ulcers, Epilepsy, Mental Disorders, HIV Infections. (e) Relapsing forms of mental disorders which have intervals of normality. (f) Diseases which have periodic attacks e.g. Bronchial Asthma, Epilepsy, Csom, etc.*

*8. The question whether the invalidation or death of a member has resulted from service conditions, has to be judged in the light of the record of the member's condition on enrolment as noted in service documents and of all other*

*available evidence both direct and indirect. In addition to any documentary evidence relative to the member's condition to entering the service and during service, the member must be carefully and closely questioned on the circumstances which led to the advent of his disease, the duration, the family history, his pre-service history, etc. so that all evidence in support or against the claim is elucidated. Presidents of Medical Boards should make this their personal responsibility and ensure that opinions on attributability, aggravation or otherwise are supported by cogent reasons; the approving authority should also be satisfied that this question has been dealt with in such a way as to leave no reasonable doubt. 9. On the question whether any persisting deterioration has occurred, it is to be remembered that invalidation from service does not necessarily imply that the member's health has deteriorated during service. The disability may have been discovered soon after joining and the member discharged in his own interest in order to prevent deterioration. In such cases, there may even have been a temporary worsening during service, but if the treatment given before discharge was on grounds of expediency to prevent a recurrence, no lasting damage was inflicted by service and there*

*would be no ground for admitting entitlement. Again a member may have been invalided from service because he is found so weak mentally that it is impossible to make him an efficient soldier. This would not mean that his condition has worsened during service, but only that it is worse than was realised on enrolment in the army. To sum up, in each case the question whether any persisting deterioration on the available evidence which will vary according to the type of the disability, the consensus of medical opinion relating to the particular condition and the clinical history.”*

19. As per the available scientific literature published by National Library of Medicine (National Center for Biotechnology Information) NLM, the cause of “Left Renal Mass” is :-

*“Renal Masses are abnormal growths in the kidney, most of which are benign. However, some pose significant clinical concern, particularly solid tumors that may represent malignancy, such as renal cell carcinoma. The causes of renal mass are multifactorial. Specifically, studies have found that smoking increases the risk of renal cell carcinoma in a dose-dependent fashion. Other classical precipitation agents, eg, asbestos, benzene,*

*cadmium, herbicides/pesticides (eg, atrazine, cyanazine, paraquat, chlorpyrifos, and chlordane), organic solvents, perfluorooctanoic acid (PFOA), perfluoroalkyl and polyfluoroalkyl substances, trichloroethylene (TCE), and vinyl chloride, are known to increase the risk of renal cell carcinoma.*

**Etiology: Major Risk Factors for Malignant Renal Masses**

**1. Lifestyle Factors**

**Smoking:** *This is considered the strongest modifiable risk factor increasing with the duration and amount of smoking.*

**Obesity:** *Being significantly overweight or obese is a major risk factor, potentially due to changes in hormone levels.*

**Hypertension:** *A history of high blood pressure is linked to an increased risk of kidney cancer.*

**2. Genetic and Inherited Syndromes**

**Family History:** *Having a first-degree relative (parent, sibling) with kidney cancer increases the risk.*

**Inherited conditions: Certain genetic disorders significantly increase the risk of developing RCC.**

**3. Acquired Conditions & Exposures**

**Long-term Dialysis: Individuals who have received long-term treatment for chronic kidney failure (dialysis) have an elevated risk.**

**Occupational Exposure: Exposure to certain chemicals, such as trichloroethylene.”**

In the present case, the disability “Left Renal Mass” was such that could not have been detected during the commencement of service. He was promptly treated and no lasting damage was inflicted by the service. As per the medical literature available on the subject, genetics play a major role in formation of renal mass.

In view of the aforesaid, we do find no reason to differ from the reasoning provided in Part V, Opinion of the Medical Board of the Medical Board Proceedings dated 23.04.2018 stating that **“Onset of the disability on 01 Feb, 2013 at Babina (UP) (Peace) likely to Etiology is Neoplastic. Not related to service conditions. Hence NANA”** and hence, it is

safe to say that there is absence of any causal connection between disability and the military service. Hence, we do not find any error in the medical Board proceedings which considered the said disability as neither attributable to nor aggravated by service.

### **CONCLUSION**

20. We, thus, hold that the disability "Left Renal Mass" has no causal connection with the military duty and therefore, there is no merit in the case, the OA 1005/2019 is thus dismissed.

Pronounced in the open Court on this 11<sup>th</sup> day of November, 2025.

**[MS. RASIKA CHAUBE]**  
**MEMBER (A)**

**[JUSTICE NANDITA DUBEY]**  
**MEMBER (J)**

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