

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

OA 1086/2020

Warrant Officer Dinesh Kumar (Retd) ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Mr. Manoj Kumar Gupta

**For Respondents : Mr. Neeraj, Sr. CGSC with
Mr. Rudra Paliwal, Advocate**

CORAM :

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

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

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) ***“To direct the respondents to grant the disability pension @30% broad banded to 50% for life in view of the Hon’ble Apex Court judgment in Rajbir Singh (Supra) by treating the disabilities as attributable and aggravated to Military service.*”**

- (b) **To direct the respondents to pay the due arrears of disability pension with interest @10% p.a. with effect from the date of retirement with all the consequential benefits, or**
- (c) **To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."**

BRIEF FACTS

2. The applicant was enrolled in Indian Air Force on 15.01.1981 and discharged from service on 30.11.2019 under the clause on "On fulfilling the conditions of enrolment" after rendering total 38 years, 10 months and 15 days of regular service. The applicant was found fit to be released in low medical category A4G2(P), for the disability of "Primary Hypertension (Old) assessed @ 30% for life. The applicant was subjected to a Release Medical Board (RMB) on 26.12.2018 whereby net qualifying percentage for disability was nil for life as the disability was adjudged as neither attributable nor aggravated to military service.

3. On adjudication, AOC AFRO has upheld the recommendations of RMB and rejected the disability pension claim of the applicant vide letter no. RO/3305/3/Med dated 19.09.2019. The outcome was communicated to the applicant vide letter No. Air HQ/99798/1/626520/11/19/DAVDP/RMB dated 09.10.2019 with an advice that he may prefer an appeal to the appellate committee within six months from the date of receipt of the letter. The applicant preferred his first appeal dated 24.01.2020 which was rejected by the Appellate Committee on First Appeal dated 06.04.2021, however, the applicant is not in receipt of this rejection letter of his first appeal. Aggrieved by the non-response of his first appeal by the respondents, the applicant has filed the instant OA. In the interest of justice thus, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(2)(b) of the AFT Act, 2007.

CONTENTION OF THE PARTIES

4. The learned counsel for the applicant submitted that the applicant joined the IAF on 15.01.1981 and was discharged

from the service on 30.11.2019 in the rank of Warrant Officer after rendering 38 years and 10 months and 15 days of long service in the Indian Air Force during which he suffered with the said disability. The learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fully fit mentally and physically and no note of any disability was made in his medical record at the time of entering into the service and thus any medical disability contracted by him during the course of his service should be treated as being attributable to and aggravated by the stress and strain of his service. The learned counsel explained about the stressful and challenging conditions of service undertaken by the applicant during his service tenure. The learned counsel further submitted that the applicant was posted at various stations (Peace and Field) and had served in tough and different/difficult weather and environmental conditions in his career and discharged all assigned duties with utmost dedication in a well-disciplined and professional manner.

5. The learned counsel for the applicant submitted that in addition to conditions of service, dietary compulsions of military life including frequent changes in weather and social environment at different geographical locations were the main causes of stress and strain on the applicant.

6. The learned counsel for the placed reliance on the judgments of the Hon'ble Supreme Court including **Union of India & Ors. v. Manjit Singh** , JT 2015 (5) SC 255, CA No. 4949/2013 in case of **Dharamvir Singh v. Union of India & Ors., Rajbir Singh and Others** (2015) 12 SCC 264, and **Angad Singh Titaria** (2015) 12 SCC 257, wherein similarly situated personnel were given relief.

7. *Per contra*, the learned counsel for the respondents submits that the Primary Hypertension disability is basically a lifestyle related disorder and in the case of the applicant it had its onset in peace station where there has been no close time association of military service with onset and progression of the disability and hence, the disability is NANA as per para 43 of GMO (Military Pension) 2008.

8. The learned counsel for the respondents also submitted that the applicant was overweight and was advised to reduce his weight on several occasions. The learned counsel for the respondent submitted the weight chart of the applicant's weight which reads as under:-

Date	Type of Med Exam	Actual Wt (KG)	IBW (KG)	BMI	Advice
18 Apr 99	Extn of Service	64	65.5	21.88	-
21 Apr 03	Annual	70	67	22.38	-
15 Mar 04	Annual	70	67	22.38	-
18 Apr 06	Annual	70	67	22.38	-
24 Apr 07	Annual	73	66.5	24.67	-
25 Sep 08	Annual	71	68.5	23.72	-
06 Aug 09	Annual	73	66	24.90	-
04 Oct 12	Annual	74	67	25.30	-
01 Sep 14	Annual	73	67	24.62	21 Apr 03
31 Aug 15	Annual	74	67	25.30	21 Apr 03
06 sep 16	Annual	76	67	25.69	21 Apr 03
16 Sep 17	Initial MB	77	67	26.10	Life style modification measures

22 Feb 18	Recategorization	77	67	26.10	SR Diet
26 Dec 18	RMB	77	67	26.10	-

9. The learned counsel for the respondents submitted that the disability of Hypertension of the applicant is directly related to his overweight condition. Hence, the OA deserves to be dismissed.

ANALYSIS

10. It is a fact that the applicant vide RMB dated 26.12.2018 has been assessed with the disability of Primary Hypertension @ 30% which has been attributed as NANA by the RMB.

11. With regard to the contention of the respondents that the applicant suffered the disability of the Primary Hypertension being an overweight, the weight chart of the applicant showing him to be over weight on many occasions has been produced which is as under:-

Date	Type of Med Exam	Actual Wt (KG)	IBW (KG)	% of overweight	BMI	Advice
18 Apr	Extn of Service	64	65.5	-2.29%	21.88	-

99						
21 Apr 03	Annual	70	67	4.48%	22.38	-
15 Mar 04	Annual	70	67	4.48%	22.38	-
18 Apr 06	Annual	70	67	4.48%	22.38	-
24 Apr 07	Annual	73	66.5	9.77%	24.67	-
25 Sep 08	Annual	71	68.5	3.65%	23.72	-
06 Aug 09	Annual	73	66	10.61%	24.90	-
04 Oct 12	Annual	74	67	10.45%	25.30	-
01 Sep 14	Annual	73	67	8.96%	24.62	21 Apr 03
31 Aug 15	Annual	74	67	10.45%	25.30	21 Apr 03
06 sep 16	Annual	76	67	13.43%	25.69	21 Apr 03
16 Sep 17	Initial MB	77	67	14.93%	26.10	Life style modificati on measures
22 Feb 18	Recategorization	77	67	14.93%	26.10	SR Diet
26 Dec 18	RMB	77	67	14.93%	26.10	-

it is evident from the weight chart reproduced hereinabove that the applicant maintained a relatively stable weight until the year 2006. However, a noticeable increase in weight is first

observed in April, 2007. From August 2009 onwards, the applicant consistently remained above the IBW, with the percentage of overweight gradually increasing over the years. In the year 2017 and 2018, the applicant being an overweight, was advised lifestyle modification and a special diet.

12. Besides the weight chart of the applicant, the perusal of the RMB also reveals that at the time of the onset of the disability in September 2017, the applicant's actual weight was 77 kg against an ideal body weight (IBW) of 67 kg thereby he was overweight by 14.93% which indicates that the applicant failed to maintain the ideal weight which can be managed by regular exercise and restricted diet.

13. The publication released by World Health Organization titled "Hypertension" assessed through internet on 16.03.2023 was examined by us and which reads to the effect:-

"Hypertension (high blood pressure) is when the pressure in your blood vessels is too high (140/90 mmHg or higher). It is common but can be serious if not treated.

People with high blood pressure may not feel symptoms. The only way to know is to get your blood pressure checked.

Things that increase the risk of having high blood pressure include:

- **older age**
- **genetics**
- **being overweight or obese**
- **not being physically active**
- **high-salt diet**
- **drinking too much alcohol**

Risk factors

- **Modifiable risk factors include unhealthy diets (excessive salt consumption, a diet high in saturated fat and trans fats, low intake of fruits and vegetables), physical inactivity, consumption of tobacco and alcohol, and being overweight or obese,”**

this bulletin of WHO specifically brings out the effect of overweight/obesity on hypertension.

14. Additionally, this Tribunal, while dealing with disability pension for disabilities ‘Obesity and Hypertension’ in O.A No. 1656/2016, titled **Ex HFO Gyanendra Singh vs Union of India & Ors**, has dismissed the case on merit which was also upheld by the Hon’ble Supreme Court in Civil Appeal Diary No. 21017/2019 decided on 08.07.2019.

15. Furthermore, this Tribunal, while dealing with disability pension for disability of "Primary Hypertension", in case of **WO Satpal Singh (Retd. vs Union of India & Ors.** , in OA No. 2097/2021 dated 03.07.2023, wherein the claim of disability pension for the disability of Primary Hypertension was disallowed because the applicant therein was found to be overweight.

CONCLUSION

16. In view of the aforesaid contentions and the parameters referred to above, and the fact that the applicant was overweight prior to the onset of the Primary Hypertension and the correlation of Primary Hypertension and overweight, we are of the view that the weight of the applicant is a contributory factor towards the onset of the primary hypertension and the applicant is not entitled to the grant of disability element of pension. We, therefore, are not inclined to grant any relief to the applicant and the original application stands dismissed.

17. There is no order as to costs.

Pronounced in the open Court on this day of 29th August
2025.


(JUSTICE NANDITA DUBEY)
MEMBER (J)


(REAR ADMIRAL DHIREN VIG)
MEMBER (A)


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