

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

OA 1571/2016

Ex Sgt Ajit Kumar Kaushik	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Ms. Pallavi Awasthi, Advocate Mr. A.K. Yadav, Advocate
For Respondents	:	Gp Capt Karan Singh Bhati, Sr. CGSC Mr. Akhil Rana, Advocate

CORAM

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

Dated: August, 2025

ORDER

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

“(a) To direct the respondents for grant of disability pension in favor of the applicant @30% for the disability (i) Isolated (LT) Sixth Nerve Palsy (H 49.2) and further @30% for the disability (ii) Primary Hypertension respectively alongwith arrears by treating the same as attributable and aggravated by the AF service.

(b) To direct the respondents to grant the benefit of rounding of disabilities of the applicant to @50% for life in terms of law settled by Hon'ble Supreme Court of India in Civil Appeal No.418/2012 titled as UOI & Ors. vs. Ram Avtar vide judgment dated 10.12.2014 as well as in a catena of judgments by this Hon'ble Tribunal.

(c) To direct the respondents to pay the due arrears of disability pension with interest @18% p.a. with effect from the date of retirement with all the consequential benefits.

(d) To pass such further order or orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."

2. The applicant, having been found medically and physically fit after thorough medical examination, was enrolled in the Indian Air Force on 23rd December, 1983 and was discharged from service on 31st December, 2009 in low medical category A4G3(P). The Release Medical Board held on 18th June, 2009 assessed the applicant's disabilities (i) Isolated (LT) Sixth Nerve Palsy (H 49.2) @ 30% and (ii) Primary Hypertension (Old) @ 30%, with composite assessment @ 30% for life and held the same as 'neither attributable to nor aggravated by military service' (NANA). Based on the recommendations of the RMB, the disability pension has been denied to the applicant.

3. Thereafter, the respondents issued the PPO No.0008/14/B/0520/2010 to the applicant in respect of his service pension. However, no disability pension was granted to him. Against the said rejection, the applicant served a legal notice-cum-representation dated 27th April, 2016 and the same was under process till the filing of this OA

on 24th November, 2016.

4. The learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fit both mentally and physically and as such no note of any disability was made in his medical record at the time of entering into the service, therefore, any medical disability contracted by him during the course of his service should be treated as being attributable 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 submitted that the applicant was posted at various stations (Peace and Field) and had served in tough and different 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 further contended that the instant matter is squarely covered by a catena of judgments of the Hon'ble Supreme Court such as Dharamvir Singh Vs. Union of India & Ors. [2013 (7) SCC 316], Union of India and Ors. Vs. Rajbir Singh [(2015) 12 SCC 264], Civil Appeal No. 418/2012 titled as Union of India & Ors. Vs. Ram

Avtar and CA-605/2010 titled *Sukhvinder Singh Vs. Union of India* [2014 STPL9(web)468 SC] and the orders passed by this Tribunal and submitted that the respondents' action in denying him the grant of the disability pension is unjustified and unlawful especially when the disabilities recorded by the RMB occurred during the military service and were caused due to stress and strain of service. The learned counsel, therefore, prayed that the disabilities in question may be held to be attributable to/aggravated by military service and that the disability pension may be granted to the applicant.

6. *Per contra*, the learned counsel for the respondents contended that the applicant is not entitled to the relief claimed since the RMB, being an Expert Body, found the disabilities as being "Neither Attributable to Nor Aggravated by Military Service". The learned counsel further contended that the applicant was a reformed smoker and drinker and he developed all these disabilities on account of being a smoker and drinker. While rejecting the disability element of pension to the applicant, the respondents have given detailed reasons for not assessing the disabilities as attributable to or aggravated by military service as the applicant had no exceptional stress and strain of service and the disabilities were conceded as neither

attributable to nor aggravated by military service in terms of Paras 43 of Chapter VI of Guide to Medical Officers (Military Pensions) 2008. The learned counsel submitted that since the applicant's disabilities do not fulfill the twin conditions in terms of Regulation 153 of the Pension Regulations for the Air Force, 1961 (Part-I) the same were assessed as neither attributable to nor aggravated by military service and, therefore, the applicant is not entitled to the grant of the disability pension and the OA thus, deserves to be dismissed.

7. On the careful perusal of the material available on record and also the submissions made on behalf of the parties, we find that the applicant has suffered two disabilities viz. (i) Isolated (LT) Sixth Nerve Palsy (H 49.2) @ 30% and (ii) Primary Hypertension (Old) @ 30%, with composite assessment @ 30% for life.

8. The onset of the disabilities was in June 1999 and March 2009. The applicant contracted his first disability, i.e., Primary Hypertension almost after 16 years of his service in the Indian Air Force and as per the counter affidavit filed by the respondents, it is revealed that the applicant had a history of smoking ten cigarettes per day for twenty years and also was in the habit of drinking frequently. The applicant was investigated

thoroughly and was referred to BHDC for medical specialist opinion in August 1999 and was diagnosed as a case of Primary Hypertension and Obesity Grade II. During periodical review, his BP was under control, he had reduced bodyweight to 83 Kgs and there were no other modifiable risk factors. Thus, it is clear that the applicant was a smoker and the onset of Primary Hypertension occurred in 1999. It is well known and proven fact by medical science that smoking can lead to ongoing complications and long-term effects on one's body system and can increase the risk of certain health conditions over the years. Tobacco products contain unsafe substances from acetone and tar to nicotine and carbon monoxide, hence the occurrence of the disability Primary Hypertension can be considered as a ramification of the applicant being a smoker and cannot be attributable to military service.

9. In support of the abovementioned facts, it is essential to advert to scientific literature available in public domain such as <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8619602/> published by National Library of Medicine on 10th November, 2021 accessed on 17th January, 2024 which read as under:-

"In this way, the onset of hypertension is affected by not just one factor but multiple factors, including both alcohol intake and smoking.

Many past studies identified alcohol as one factor that worsens hypertension. In these studies, a dose-response relationship between alcohol consumption and hypertension was specifically noted. On the other hand, the relationship between smoking and hypertension was not found to be significant. However, a transient increase in blood pressure while smoking cigarettes, as well as findings supportive of a causal association of smoking burden with a higher resting heart rate, were noted, despite how no direct relationship between smoking and hypertension has been documented. Furthermore, numerous studies on the risks of cardiovascular disease (stroke and heart disease) have found that alcohol and smoking raise by several fold the risk of cardiovascular diseases. In these studies, alcohol, smoking, and hypertension are all factors similarly affecting the outcome of cardiovascular diseases. Some previous studies have investigated the relationship between hypertension and both alcohol and smoking, but none, to our knowledge, have focused on the synergistic health effects of the two together on hypertension."

10. 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, i.e., Primary Hypertension was assessed to be above 20% which is the bare minimum for grant of disability pension in terms of Pension Regulations for the Air Force.

11. It is pertinent to note that at the time of the RMB, the applicant is grossly overweight, with an actual weight of 98 Kg as against an ideal weight of 80 Kg. The weight record of the applicant for previous years was called for and it is seen that the applicant has been overweight from 1999 onwards and was regularly advised to reduce his weight, prescribed dietary restrictions and regular exercise. The fact that the applicant

was overweight much before the conduct of Release Medical Board proceedings cannot be ignored thus bringing us to the conclusion that the applicant himself is responsible for his disability of Primary Hypertension. Therefore, we hold that the organisation cannot be held liable for the applicant's personal health choices and actions.

12. We cannot shy away from the fact that the disability, i.e., Primary Hypertension is 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 obese 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.

13. Applying the above parameters to the case at hand, we are of the view with respect to disability of Primary Hypertension, 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 the disability of Primary Hypertension.

14. In so far as the disability of "Isolated (LT) Sixth Nerve Palsy (H 49.2)" which is also known as abducens nerve palsy, a condition where the sixth cranial nerve responsible for controlling the lateral rectus muscle of the eye is damaged leading to impaired outward movement of the left eye, is concerned, a micro vascular affront due to obesity is a well recognized cause for the disability. We have already disallowed the claim of the applicant for the disability of Primary Hypertension on the ground of his being overweight; therefore, for the disability of "Isolated (LT) Sixth Nerve Palsy (H 49.2)", which can also be caused due to obesity, we are left with no option but to deny the claim of the applicant for grant of disability pension. Moreover, we also do not find any causal connection of the disability with the military service. Therefore, in view of the fact that the RMB held the disability, although assessed it @30% for life yet held it NANA, we find no reason to interfere with the inference drawn by the RMB.

15. Thus, in view of the circumstances of the instant matter, we do not find any infirmity in the opinion of the Release Medical Board denying the disability element of pension to the applicant for both the disabilities being neither attributable to nor aggravated by military service and the applicant thus is not

entitled to the grant of the disability element of pension for which the applicant is himself responsible due to his history of being a smoker and overweight.

16. In view of the aforesaid analysis and the parameters referred to above, there being no infirmity in the opinion of the RMB, we hold that the applicant is not entitled to any relief and thus the OA 1571/2016 stands dismissed.

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

Pronounced in open Court on this 5th day of August, 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[RASIKA CHAUBE]
MEMBER (A)

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