COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA 1809/2021

WO Ran Bijay Singh (Retd) .....Applicant

VERSUS

Union of India and Ors. ....Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate with
For Respondents : Ms. Jyotsna Kaushik, Advocate
Sgt Pradeep Sharma, DAV In-Charge, Legal Cell

CORAM

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

O R D E R

Invoking the jurisdiction of this Tribunal under Section 14, the applicant has filed this application 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% in accordance with the applicable Rules and held by the Hon'ble Apex Court and relied upon by this Hon'ble AFT vide Annexure-A4 and A6 and the Entitlement rules, 1982, by setting aside the part of the Medical Board (Annex-A2) by treating the onset of ID as attributable and aggravated by the Military service; and/or.*
> *(b) To direct the respondents to pay the due arears of disability pension with interest @10% p.a. with effect from the date of retirement with all the consequential benefits; and/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 the Indian Air Force on 01.10.1980 and was discharged from service on 31.12.2020 under the clause "On attaining the age of

superannuation" after rendering total 40 years and 03 months of regular service. The applicant was initially detected to have **'Type- II Diabetes Mellitus with Diabetic Nephropathy'** and was placed in Low Medical Category A4G4(T-24) vide AFMSF-15 dated 19.01.2018, while posted at Jorhat.

3. The **Release Medical Board (RMB)** dated 24.02.2020 held that the applicant was fit to be released from service in low medical category A4G4(P) for ID- **'Type-II Diabetes Mellitus' (DM Type-II)** assessed @ 30% for life while the net qualifying element for disability was recorded as 'NIL' for life on account of his disability being treated as neither Attributable to nor aggravated by military service.

4. The RMB considered the disability of the applicant as neither attributable to nor aggravated by service with the following reason:-

> ***"Onset of disability in peace area while posted at 49 Sqn, AF (Jorhat) which is a peace station. There is no delay of diagnosis and there is no close time association with CI Ops/ Field/ HAA service, hence the disability is neither attributable to nor aggravated by service conditions as per Para 26 to chapter VI of GMO 2008"***

5. On adjudication, AOC AFRO has upheld the recommendation of RMB and rejected the disability pension claim of the applicant *vide* letter No. RO/3305/3/Med dated 26.03.2021. The outcome of the same was communicated to the applicant *vide* letter No. Air HQ/99798/1/668375/12/19/DAV(DP/RMB) dated 18.10.2021 with an advice that he may prefer an appeal to the Appellate committee within 6 months from the date of receipt of letter. Aggrieved thereby, the applicant has filed the present OA.

CONTENTIONS OF THE PARTIES

6. Placing reliance on the judgements of the Hon'ble Supreme Court in *Dharamvir Singh Vs. Union of India & Ors* [2013 7 SCC 316], *Sukhvinder Singh Vs. Union of India & Ors,* dated 25.06.2014 reported in [2014 STPL (Web) 468 SC], *UOI & Ors. Vs. Rajbir Singh* [(2015) 12 SCC 264], learned counsel for the applicant submitted that if there is no note of any disability recorded in the service documents of the applicant at the time of entry into the service, the subsequent release in low medical category shall be treated as a consequence of military service, resulting in entitlement of disability pension and for further broad banding in view of the decision in *Union of India Vs. Ram Avtar* (Civil Appeal No. 418/2012), decided on 10.12.2014.

7. Learned counsel further argued that the applicant was working as an engine fitter and that his ailment was detected in January 2018. Since then, he had been on medication and was never exempted from performing his duties. While being posted at various stations, the ailment developed as a direct consequence of the prolonged stress and strain faced by him in the discharge of his official duties.

8. *Per contra*, learned counsel for the respondents submitted that, as per the medical case sheet dated 27.10.2023, the applicant was detected with abnormal sugar profile. He not only has a family history of diabetes (his mother being diabetic), but also a long history of smoking three cigarettes per day for the past 38 years and of being a social drinker. He was further advised lifestyle modification and was thereafter periodically reviewed for the said disability. Although RMB assessed the disability at 30% and placed him in LMC A4G4 (P), it opined that the

disability was "Neither Attributable to Nor Aggravated by Military Service" on the ground that the said disability was not connected with service. Hence, the applicant is not entitled for grant of disability pension.

9. Furthermore, learned counsel placed reliance on the judgments of the Hon'ble Supreme Court in ***Union of India v. A.V. Damodaran*** **[SLP (C) No. 23727 of 2008]**, and ***Controller of Defence Accounts (Pension) & Ors. v. Balachandra Nair*** **[AIR 2005 SC 4391]**, to contend to the effect that the Medical Board is an expert body and its opinion is entitled to be given due weight, value and credence and the assessment made by the medical board is to be accepted unless contradicted by any other medical board by cogent evidence and the findings of the expert medical board ought not to be interfered with unless palpably wrong.

ANALYSIS

10. Heard learned counsel for the parties and perused the record as well as the Release Medical Board (RMB) proceedings produced before us. As far as the disability of 'DM Type-II' is concerned, it has been assessed at 30% by the RMB which is more than the bare minimum for grant of disability element of pension. Accordingly, the issue which is to be considered now is *whether the disability suffered by the applicant is to be held attributable to and aggravated by military service or not?*

11. Guidelines for assessment of 'DM Type-II' have been spelt out in Para 26 Chapter VI of the GMO 2008 (MP) which reads as under:

> *"26. Diabetes Mellitus*
>
> *This is a metabolic disease characterised by hyperglycemia due to absolute/relative deficiency of insulin and associated with long term*

complications called microangiopathy (retinopathy, nephropathy and neuropathy) and macroangiopathy.

There are two types of Primary diabetes, Type 1 and Type 2. Type 1 diabetes results from severe and acute destruction of Beta cells of pancreas by autoimmunity brought about by various infections including viruses and other environmental toxins in the background of genetic susceptibility. Type 2 diabetes is not HLA-linked and autoimmune destruction does not play a role.

Secondary diabetes can be due to drugs or due to trauma to pancreas or brain surgery or otherwise. Rarely, it can be due to diseases of pituitary, thyroid and adrenal gland. Diabetes arises in close time relationship to service out of infection, trauma, and post surgery and post drug therapy be considered attributable.

Type 1 Diabetes results from acute beta cell destruction by immunological injury resulting from the interaction of certain acute viral infections and genetic beta cell susceptibility. If such a relationship from clinical presentation is forthcoming, then Type 1 Diabetes mellitus should be made attributable to service. Type 2 diabetes is considered a life style disease. Stress and strain, improper diet non-compliance to therapeutic measures because of service reasons, sedentary life style are the known factors which can precipitate diabetes or cause uncontrolled diabetic state.

Type 2 Diabetes Mellitus will be conceded aggravated if onset occurs while serving in Field, CIOPS, HAA and prolonged afloat service and having been diagnosed as Type 2 diabetes mellitus who are required serve in these areas.

Diabetes secondary to chronic pancreatitis due to alcohol dependence and gestational diabetes should not be considered attributable to service."

12. The Entitlement Rules for Casualty Pensionary Awards, to the Armed Forces Personnel 2008, which took effect from 01.01.2008, provide *vide* Paras 6, 7, 10, and 11 thereof as under:

"6. Causal connection:

For award of disability pension/special family pension, a causal connection between disability or death and military service has to be established by appropriate authorities.

7. Onus of proof:

Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the ouns to prove the entitlement would lie on the claimant.

10. Attributability:

(a) Injuries:

In respect of accidents or injuries, the following rules shall be observed:

i) Injuries sustained when the individual is 'on duty', as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).

ii) In cases of self-inflicted injuries white 'on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.

(b) Disease:

(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-

(a) that the disease has arisen during the period of military service, and

(b) that the disease has been caused by the conditions of employment in military service.

(ii) Disease due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contacted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical courses as determined by the competent medical authority.

(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture and current scientific medical application.

(iv) when the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.

11. Aggravation:
A disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic conditions, environmental factors related to service conditions e.g. Fields, Operations, High Altitude etc."

13. In the present case, the onset of the disability, namely 'DM Type-II', occurred in January 2018, after nearly 37 years of service following the applicant's induction into the Indian Air Force on 01.10.1980. Although the applicant is not overweight, he has a genetic history of diabetes, his mother being a diabetic patient. Further, the medical case sheet clearly records that the applicant has been a smoker for the past 38 years, consuming approximately three cigarettes per day, and is also a social drinker. He was accordingly issued an advisory for lifestyle modification.

14. Furthermore, the RMB has opined the disability as "Neither Attributable to Nor Aggravated by service." That expert view carries due weight in the absence of cogent medical material demonstrating a service-related causal chain or aggravation. The issue has been dealt by Hon'ble Supreme Court in ***Ex CFN Narsingh Yadav v. UoI*** **(Civil Appeal No. 7672 of 2019)**, wherein it was held that:-

"21. Though, the opinion of the Medical Board is subject to judicial review but the Courts are not possessed of expertise to dispute such report unless there is strong medical evidence on record to dispute the opinion of the Medical Board which may warrant the constitution of the Review Medical Board. The invaliding Medical Board has categorically held that the appellant is not fit for further service and there is no material on record to doubt the correctness of the Report of the invaliding Medical Board."

15. At this point, it is also relevant to refer to the observations made by Hon'ble Supreme Court in ***Secretary, Ministry of Defence and others vs A. V.Damodaran (dead) through LRs and others*** [(2009) 9 SCC 140], clearly brings out the following principles with regard to primacy of medical opinion have been laid down:-

> *"8. When an individual is found suffering from any disease or has sustained injury, he is examined by the medical experts who would not only examine him but also ascertain the nature of disease/injury and also record a decision as to whether the said personnel is to be placed in a medial category which is lower than 'AYE' (fit category) and whether temporarily or permanently. They also give a medical assessment and advice as to whether the individual is to be brought before the release/invalidating medical board. The said release/invalidating medical board generally consists of three doctors and they, keeping in view the clinical profile, the date and place of onset of invaliding disease/disability and service conditions, draws a conclusion as to whether the disease/injury has a causal connection with military service or not. On the basis of the same, they recommend (a) attributability, or (b) aggravation, or (c) whether connection with service. The second aspect which is also examined is the extent to which the functional capacity of the individual is impaired. The same is adjudged and an assessment is made of the percentage of the disability suffered by the said personnel which is recorded so that the case of the personnel could be considered for grant of disability element of pension. Another aspect which is taken notice of at this stage is the duration for which the disability is likely to continue. The same is assessed/recommended in the form of AFMSF-16. The Invalidating Medical Board forms its opinion/recommendations on the basis of the medical report, injury report, court of enquiry proceedings, if any, charter of duties relating to peace or field area and, of course, the physical examination of the individual.*
>
> *9. The aforesaid provisions came to be interpreted by the various decisions rendered by this Court in which it has been consistently held that the opinion given by the doctors or the medical board shall be given weightage and primacy in the manner for ascertainment as to whether or not the*

injuries/illness sustained was due to or was aggravated by the military service which contributed to invalidation from the military service."

16. In view of the oral submissions made by the Respondents, we find that the reliance placed by the learned counsel for the applicant on the judgment in ***Dharmvir Singh (Supra),*** the same is distinguishable and not applicable to the present case. This case is not one of invalidation/release on medical grounds, as was the situation in ***Dharamvir Singh (Supra),*** wherein the applicant would be granted disability pension. However, in the present case, the applicant would be entitled to the disability element of pension, provided the disability is considered to be attributable to or aggravated by military service.

17. We find no infirmity in the proceedings of the Medical Board and no cogent reason to interfere with its opinion. 'DM Type-II' is primarily a lifestyle disorder with a genetic predisposition, and there is no record establishing any causal connection between the disability and the service conditions. Upon perusal of the RMB proceedings, we find that even according to the applicant, there were no incidents during service that either caused or aggravated the disability. The relevant portions of the Part-1, Personal statement in para 4 is reproduced hereunder:-

4.Give details of any incidents during your service, which you think caused or made your disability worse- No

Therefore, the claim of the applicant is not sustainable and merits dismissal.

CONCLUSION

18. In view of the foregoing analysis, this Court concludes that there is no demonstrable causal or aggravating link between the applicant's service and the

onset or progression of his disability. The opinion of the RMB warrants no interference. The present Original Application is, therefore, devoid of merit and stands dismissed.

19. There shall be no order as to costs.

20. Pending miscellaneous application(s), if any, stand closed.

Pronounced in open Court on 24th day of December, 2025

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

/SJ/