

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

104.

OA 2281/2019

Suman W/o Late Ex Nk Sudhir Singh	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Banvendra Singh Gandhar & Simran Singh Parihar, Advocate
For Respondents	:	Mr. K K Tyagi, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
21.05.2025

This Application has been filed under Section 14 of the Armed forces Tribunal Act, 2007 by Ex-Naik Sudhir Singh on 09.12.2019 and in the said Application he had called in question tenability of an order dated 24.09.2019 by which in exercise of the powers available to the competent authority under Rule 13(3) Item 1 (ii)(a)(i) of Army Rules, 1954, as no sheltered appointment was available and he having been placed in Low Medical Category SHAPE-2 (permanently) on account of Alcohol Dependency Syndrome, was discharged from service. Challenge to the discharge has been made on various grounds, however, during the pendency of the Application Ex Naik Sudhir Singh expired on 31.08.2023 and, therefore, an application

was filed by his wife Smt. Suman vide MA No.4975/2024. The said Application has been allowed and his wife Smt. Suman has been brought on record as the applicant w.e.f. 07.12.2023.

2. Now, in the light of death of the original applicant, the wife of the original applicant claims benefit as may be permissible under law. As far as discharge of the original applicant is concerned, we find that the original applicant was enrolled in June, 1985 in the Army Medical Corps and after rendering 18 years of service retired from service on 31.03.2003 and has earned pension for this service. Thereafter, on 29.05.2006, he was enrolled in the Defence Service Corps for a period of ten years extendable up to 5 years i.e. upto May, 2021. In December, 2017 in the Medical Examination, he was medically down graded on account of CAD 'Acute Cornary Syndrome' and was placed in the low medical category. He was also suffering from Alcoholic Dependency Syndrome. On account of his being declared as medical unfit and placed in the low medical category(Permanent), a show cause notice was issued to him on 01.04.2019 which was replied by the applicant vide letter dated 10.06.2019 requesting to allow him to continue in service till 29.05.2022 i.e. the remaining period of his service. The prayer was rejected by the respondents on the ground of non availability of sheltered appointment vide letter dated 11.06.2019. Thereafter, he

was discharged from service (second service) in the DSC after completing 13 years and 6 months of service on 30.11.2019. Now, reinstatement of the original applicant is not possible as he was found to be medically unfit and also on account of the fact that he is no more alive. However, during the course of hearing of the matter, it has come on record as is evident from the communication dated 15.03.2022 written by the Defence Service Corps Records office that the individual was discharged from service under the provisions of Army Rule 13 after rendering 13 years, 6 months and 3 days of qualifying service. He was discharged from service as no shelter appointment was available. His case was processed by PCDA(P), Prayagraj for grant of invalid pension and vide PPO No.194202002488/2000, invalid pension had been granted to the applicant.

3. That being so, now after death of the applicant, based on the invalid pension sanctioned by the competent authority, the applicant's wife would be entitled to family pension. Accordingly, finding no case made out for interfering with the original order of discharge as it has been passed after due consideration, based on the medical condition of the original applicant Late Ex Nk Sudhir Singh, we dispose of the matter with a direction, that, based on the PPO mentioned above, Late Ex Nk Sudhir Singh be granted invalid pension

from the date of his discharge on 30.11.2019 till the date of his death i.e. 31.08.2023, if not already done, within a period of three months from the date of receipt of a copy of this order and the same if not already paid to Late Ex Nk Sudhir Singh during his lifetime be paid now to his wife, the present applicant, and from the date of death of her husband, ordinary family pension, in accordance with the rules, be granted to the present applicant. Action for implementing the directions of this Tribunal be undertaken within a period of three months from the date of receipt of a copy of this order.

4. No order as to costs.


(REAR ADMIRAL/DHIREN VIG)
MEMBER (A)


(JUSTICE RAJENDRA MENON)
CHAIRPERSON

/vb/