

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

OA 2326/2021

HFO Rishi Pal (Retd.)

...Applicant

VERSUS

Union of India and Ors.

....Respondents

For Applicant

: Mr. Ombir Singh Mandaar and
Mr. Anuj Saini, Advocates

For Respondents

: Mr. 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)

ORDER

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. Direct the respondents to grant and pay disability pension to the applicant @50% by giving the benefits of disability pension from the date of his discharge i.e., w.e.f. 30/06/2016 in the light of law laid down Hon'ble Supreme Court alongwith interest @18% per annum alongwith all consequential benefits; and

B. To reward any other/further relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case along with cost of the application in favour of the applicant and against the respondents."

BRIEF FACTS

2. The applicant was enrolled in Indian Air Force on 26.02.1977 and was discharged from service on 30.06.2016 under the clause "On attaining the age of superannuation" after rendering a total of 39 years and 126 days of regular service. The Release Medical Board (RMB) dated 17.08.2015 held that the applicant was fit to be released from service in low medical category A4G2(P) for ID- 'Primary Hypertension' assessed @ 30% for life however, the net qualifying percentage for the disability was assessed 'Nil' for life as the disability was adjudged as neither attributable to nor aggravated by Air force service.

3. The claim of the applicant for grant of disability pension was rejected *vide* letter No. RO/3305/3/Med dated 03.03.2016 and the same was communicated to the applicant *vide* letter No. Air HQ/99798/1/659349/06/16/DAV/DP/RMB dated 31.03.2016 stating that the aforesaid disability was considered as neither attributable to nor aggravated by military service.

4. The applicant had preferred first appeal on 12.09.2019 which had not been replied by the respondents even after a time lapse of 6 months. Being aggrieved, the applicant has filed the present OA.

CONTENTIONS OF THE PARTIES

5. The learned counsel for the applicant has submitted that he was enrolled in Indian Air Force on 26.02.1977 and remained absolutely fit

in medical category 'AYE' for about 33 years of service and thereafter only because of the said disease his medical category was lowered down.

6. Placing reliance on the judgement of the Hon'ble Supreme Court in *Dharamvir Singh v. UOI & Ors* (2013) 7 SCC 36, learned Counsel for applicant argues that no note of any disability was recorded in the service documents of the applicant at the time of the entry into the service, and that he served in the Air Force at various places in different environmental and service conditions in his prolonged service, thereby, any disability at the time of his service is deemed to be attributable to or aggravated by Air Force service.

7. *Per contra*, the learned counsel for the respondents submitted that the ID i.e. 'Primary Hypertension' is basically a lifestyle related disorder and in the case of the applicant it had its onset in peace station in September 2010 and 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 Chapter VI of Guide to Medical Officers (Military Pension), 2008.

8. Learned counsel for the respondents contended that the applicant is not entitled to the relief claimed since the RMB, being Expert Body, after thorough examination of the applicant, found the disability as "Neither Attributable to Nor Aggravated by Military Service" on the ground that the said disability of the applicant is not connected with service.

ANALYSIS

9. Heard learned counsel for the parties and perused the record as well as the RMB proceedings produced before us. The applicant claims to be suffering from two IDs namely i) Primary Hypertension ii) CAD-IWMI (OLD) with normal LV function Patent epicardial coronaries however, upon perusal of the RMB and the counter affidavit, the applicant is seen to be having only one ID i.e. Primary Hypertension @ 30% for life. During the arguments, the applicant has clarified that it is a typographical error and he is only having one ID i.e. Primary Hypertension.

10. The present case is not a case of invalidation wherein the applicant will be granted disability pension. However, the present claim is limited to the entitlement to the disability element of the pension, provided the disability is considered as attributable to or aggravated by military service.

11. It is not in dispute that the extent of disability of 'Primary Hypertension' has been assessed at 30% for life, which is more than the bare minimum for the grant of the 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?*

12. We find, in a catena of judgments, that disability of primary hypertension has been held to be attributable to or aggravated by military service, and this view has been further upheld by various High Courts.

13. There is no gainsaying that the opinion of the Medical Board which is an expert body has to be given due weight and credence. But the opinion of the Medical Board cannot be read in isolation and has to be read in consonance with the Entitlement Rules for Casualty Pensionary Awards & General Rules of Guide to Medical Officer. A mere statement that onset of disease was during a peace posting is clearly insufficient to discharge this onus. In the present case, the applicant has served in the Indian Air Force for a total of 39 years and 126 days and the onset of the disability of 'Primary Hypertension' occurred in September 2010 after 33 years of service, whilst he was posted in peace station.

14. The Tribunal has also observed in large number of cases that military services in peace stations have their own pressure of rigorous military training and associated stress and strain, physically and mentally, of the service and the contention that there is no evidence of stress and strain of service in peace station should not be considered for the purpose of granting disability element of pension.

15. It may also be taken into consideration that the most of the personnel of the armed forces, during their service, work in the stressful

and hostile environment, difficult weather conditions and under strict disciplinary norms. Moreover, there is no note made in the applicant's medical documents that he was suffering from any disease at the time of joining the service. There is no record to show that the applicant has suffered the disability due to hereditary or unhealthy lifestyle nor there is any family history placed on record. Further, on perusal of the medical records we find that the weight of the applicant is also within the permissible limit. In view of the settled law we are, therefore, of the considered view that the disability suffered by the applicant has to be held to be attributable to and aggravated by the military service.

CONCLUSION

16. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is entitled for disability element of pension in respect of disability 'Primary Hypertension'. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% for life rounded off to 50% for life with effect from the date of his superannuation i.e. 30.06.2016, in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of *Union of India Vs. Ram Avtar* (Civil Appeal No. 418/2012), decided on 10.12.2014. However, as the applicant has approached the Tribunal after a considerable delay, the arrears be restricted to three years prior to the date of filing of OA.

17. The respondents are thus directed to calculate, sanction and issue the necessary PFO to the applicant within a period of three months from the date of receipt of copy of this order, failing which, the applicant will be entitled for interest @ 6% per annum from the date of receipt of copy of the order by the respondents.
18. Consequently, the O.A. 2326/2021 is allowed.
19. No order as to costs.

Pronounced in the open Court on 18th day of December, 2025.

(JUSTICE NANDITA DUBEY)

MEMBER (J)

(RASIKA CHAUBE)

MEMBER (A)

/SJ/