

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

OA 409/2017

WITH

MA 341/2017

Sgt Sundeep Yadav (Retd.)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

: Ms. Archana Ramesh, Advocate

For Respondents

: Mr. V Pattabhi Ram, Advocate for R 1-2

Mr. J.S. Arora, Advocate for R-3

CORAM :

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

HON'BLE LT. GEN. C.P. MOHANTY, MEMBER (A)

ORDER

MA 341/2017

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 01 year, 04 months and 05 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of *UoI & Ors Vs Tarsem Singh* 2009(1)AISLJ 371 and in *Ex Sep Chain Singh Vs Union of India & Ors* (Civil Appeal No. 30073/2017 and the reasons mentioned, the MA 341/2017 is allowed and the delay of 01 year, 04 months and 05 days in filing the OA 409/2017 is thus condoned.

2. The MA is disposed of accordingly.

3. The applicant Sgt Sundeep Yadav vide the present OA makes the following prayers:

- “(a) Issue directions to the Respondents to quash and set aside the Air Headquarters Directorate of Air Veterans, Subroto Park, New Delhi Order dated 01 May 2015 placed as Annexure A-1 and to declare the disability of ‘Primary Hypertension’ either as attributable or aggravated to military service in the light of the landmark judgement of the Hon’ble Supreme Court in Re Dharamvir Singh v. Union of India dated 02 July 2013 reported as (2013) 7 SCC 316 placed as Annexure A-4 which is reflected in the Judgements of the Hon’ble Armed Forces Tribunal in OA No 132/2014 in Re Major CM Mamgain Vs Union of India dated 23 Apr 2015 as also in OA No 243/2014 in Re Naib Subedar Dharamvir Singh Vs Union of India dated 06 May 2015 which are placed herein as Annexure A-5 (Colly);*
- (b) Issue directions to the Respondents to grant Air Force Group Insurance Fund proportionately to the Disability Pension percentage in the light of the Hon’ble Punjab and Haryana High Court Judgement in Re Paramjit Singh Versus Union of India dated 12 Feb 2008 which has been upheld by the Hon’ble Supreme Court vide Order dated 04 April 2011 placed as Annexure A- 6 (Colly);*
- (c) Issue directions to the Respondents to grant LPG Agency to the Applicant on the ground of the Disability Pension as per the rules of subject placed as Annexure A-7;*
- (d) Pass such other and further orders/directions to the Respondents as an adequate exemplary compensation in the attendant genuine circumstances of the case, to meet the ends of equity, justice and fairplay. ”*

4. At the time of final arguments on 26.05.2025, learned counsel for the applicant has fairly submitted that she is pressing only to the extent of Prayer (a) in the present OA, and thus, we take up this OA 409/2017 for adjudication forthwith.

5. The applicant was enrolled in the Indian Air Force on 04.05.1995 and discharged from service on 31.05.2015 under the clause on "attaining the age of superannuation" after rendering a total of 20 years and 27 days of regular service. The applicant's Release Medical Board (RMB) not solely on medical grounds was held on 09.12.2014 which found him fit to be released in composite low medical category A4G2 (P) and assessed his disability ID - Primary Hypertension @ 30% and recommended disability as being neither attributable to nor aggravated by AF Service

6. The claim of the applicant for the disability pension was rejected by AOC Air Force Records Office vide letter No. RO/3305/3/Med dated 24.02.2015, and the same was communicated to the applicant vide letter no. AirHQ/99798/1/771308/DAV/(DP/RMB) dated 01.05.2015. Aggrieved by the aforesaid rejection, applicant has preferred this OA.

CONTENTIONS OF THE PARTIES

7. The applicant submits that in as much as he was enrolled in the Indian Air Force in a fit medical condition in the absence of any note on the record of any disability or disease that he suffered from having been made in the records of the respondents, the disability that he suffers from has to be held to be attributable to/aggravated by military service.

8. Inter alia the applicant submits that he was entrusted with the duties and responsibilities for various assignments by the respondent's organization and during the performance of the same, he contracted the disabilities.

9. The respondents through their counter affidavit submit that as per Rule 5 of the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008, the mere fact that a disease has manifested itself during military service does not *per se* establish attributability to or aggravation by military service, that the medical test at the time of entry is not exhaustive, but its scope is limited to broad physical examination and therefore, it may not detect some dormant diseases. Besides, certain hereditary constitutional and congenital diseases may manifest later in life, irrespective of service conditions.

10. Inter alia the respondents place reliance on Rule 153 of the Pension Regulations for IAF, 1961 (Part-I) which is to the effect:-

"Unless, otherwise specifically provided a disability pension may be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by Air Force service and is assessed at 20% or over."

to submit that disability pension is granted to those who fulfil the following two criterias simultaneously:-

- (i) *Disability must be either attributable to or aggravated by service.*
- (ii) *Degree of disablement should be assessed at 20% or more.*

and reiterate that the applicant is not entitled to the grant of the disability element of pension in accordance with the prevailing rules and policies.

11. It is further submitted by the Respondents that the applicant was overweight before the onset of the disability, which is a contributory factor of the disability of Primary Hypertension.

ANALYSIS

12. Before adjudication, it is pertinent to refer to Part V of the RMB dated 17.06.2016, it was opined to the effect:-

<i>Disability</i>	<i>Attributable to service (Y/N)</i>	<i>Aggravated by service (Y/N)</i>	<i>Not connected with service (Y/N)</i>	<i>Reason / Cause / Specific condition and period in service</i>
<i>I.PRIMARY HYPERTENSION ICD No I,Z 09.0</i>	<i>NO</i>	<i>NO</i>	<i>YES</i>	<i>NO. As the onset of disability is in peace area and there is no close time association with HAA/CI OPS/ Field. As per para 43 of Ch VI of GMO (Mil Pen)-2008 refers</i>

13. The percentage of disablement was put forth in the RMB to the effect:-

<i>Disability (As numbered in Para I Part IV)</i>	<i>Percentage of disablement with duration</i>	<i>Composite assessment for all disabilities with duration (Max 100%)</i>	<i>Disability Qualifying for Disability Pension with duration</i>	<i>Net Assessment Qualifying for Disability Pension (Max 100%) with duration</i>
<i>PRIMARY HYPERTENSION ICD No I,Z 09.0</i>	<i>30%</i>	<i>30% (Thirty percent)</i>	<i>Nil for life long</i>	<i>Nil for life long</i>

14. We find that the applicant is constantly overweight ranging between 10 to 17 kgs in the period from 30.09.2004 to 02.07.2013 with his actual weight ranging between 77- 89 Kgs as against the Ideal weight of 70-74 Kgs, just before the onset

of the disability. By 30.09.2004, the applicant was at the border of permissible 10% weight bracket, which was breached in the Annual Medical Board dated 27.07.2005. Similarly, while applicant reduced some weight in the year 2006, he again became overweight in the year 2007, while again reducing by the end of year 2008. However, from 29.10.2009 to 02.07.2013, applicant was overweight by almost 15-17 kgs.

15. We have analysed all the Annual and Re-categorisation Medical Boards and we find the same trend, with the applicant not reducing the weight even after slew of directions advised by the medical experts including brisk walking, jogging and reducing the weight. However, we observe that the weight has not been reduced, thereby, clearly showcasing that onset of disability is the result of the applicant being alarmingly overweight, and therefore, the argument that the applicant suffered the disability due to stress and strain of the service is wholly unfounded on the simple reasoning that the organisation cannot be held liable for the own actions of the applicant.

16. We cannot shy away from the fact, that the disability - PHT 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 is alarmingly overweight signifies that the applicant has remained obese over a period of time, thereby,

himself inviting the disability, and in such a case, it would be grossly unjustified for us to ignore the aforesaid facts.

17. Before concluding, it is relevant to point out that the association of overweight and hypertension has been recognized since the beginning of the twentieth century when blood pressure was first measured in populations, and this relationship between body weight and blood pressure was demonstrated prospectively in several studies in the 1960s. Appreciation of the clinical significance of obesity-related hypertension has grown substantially over this same time period, to the point where obesity is recognized as a major cause of high blood pressure, and the combination of obesity and hypertension is recognized as a preeminent cause of cardiovascular risk.

18. Epidemiological data unequivocally support the link between body weight and blood pressure, thus indicating greater body weight as one of the major risk factors for high blood pressure. Likewise, higher BMI is also associated with increased risk for development of hypertension over time. Hypertension is a complex phenotype that arises from numerous genetic, behavioural and even social origins, and obesity is one of the most prevalent risk factors for its development.

19. Regardless of its etiology, however, hypertension is a highly prevalent and highly significant risk factor for the development of all manifestations of cardiovascular disease,

including coronary heart disease, stroke, heart failure, aortic and peripheral arterial disease, and valvular heart disease.

20. The importance of lifestyle management in the treatment of patients with obesity-related hypertension cannot be misunderstood. Adoption of a healthy lifestyle facilitates weight loss, increases responsiveness to antihypertensive medications and produces independent beneficial effects on cardiovascular risk factors.

CONCLUSION

21. Applying the above parameters to the case at hand, we are of the view with respect to disability - PHT, 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.

22. Therefore, in view of our analysis, the OA is liable to be dismissed.

23. No order as to costs.

Pronounced in the Open Court on the 29th day of May, 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[LT GEN C.P. MOHANTY]
MEMBER (A)

/AkC/

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