

COURT NO. 2, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 485 of 2018

In the matter of :

Ex Sub Ashok Kumar

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri Virender Singh Kadian, Advocate

For Respondents : Shri Satya Ranjan Swain, Advocate with
Shri Ankush Kapoor, Advocates for
Respondents Nos. 1 to 3

Ms. Anjali Vohra, Advocate for
Respondent No. 4

CORAM :

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER(J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA and the reliefs claimed in Para 8 read as under :

- “(i) Quash and set aside the impugned letter
No. JC-767226/T-B/Court Case Cell dated
25.08.2017. And/or
(ii) Direct respondents to grant AGIF benefits
and make payment of due arrears as***

***applicable with interest @ 12% per annum
till final payment is made.***

***(iii) Pass any other order as this Hon'ble
Tribunal may deem fit and proper in the
facts and circumstances of the case
mentioned above.***

BRIEF FACTS

2. The applicant was enrolled in the Indian Army on 06.08.1986 in EME Corps and was discharged from service on 31.03.2015 due to low medical category. After completion of 28 years of service, the applicant was granted two years' extension of service from 06.08.2014 to 05.08.2016. In October, 2014, the applicant was detected as a case of DIALAED CARDIOMYOPATHY, while serving in High Altitude Area (Leh & J&K) and was admitted to Command Hospital (WC) Chandimandir for the period 21.07.2014 to 11.10.2014 and was placed in low medical category P3(T-24) w.e.f. 10.10.2014 and the same was held as attributable to military service.

3. Since the applicant was in low medical category during the extended tenure, the official respondents issued a Show

Cause Notice to the applicant as per Appendix 'B' of IHQ of MoD (Army) letter No. B/33098/AG/PS-2 (c) dated 20.09.2010 which provides that if there is a drop in the medical criteria at any time during the extended tenure, the individual will be discharged under relevant Army Rules within a period six months after issue of Show Cause Notice. The applicant replied to the Show Cause Notice vide letter dated 28.12.2014 stating that he was placed in low medical category while he was posted in HAA and he was discharged from service before completion of 30 years due to low medical category. Accordingly, the applicant was issued discharge order due to drop in medical criteria during extension period of service w.e.f. 31.03.2015. As the Release Medical Board considered the disability 'Dilated Cardiomyopathy' of the applicant as attributable to military service and assessed the disablement @ 50%, the applicant was granted disability element of pension @ 75% with effect from 01.04.2015 for life along with service element of pension.

4. The applicant sent a legal notice-cum-representation dated 27.07.2017 seeking grant of AGIF benefits, which was replied to by the respondents stating that the applicant is not

eligible for AGI disability benefits. Against this, the applicant filed the present OA seeking the said relief. In the interest of justice, in terms of Section 21(1) of the AFT Act, 2007, we take up the same for consideration.

CONTENTIONS OF THE PARTIES

4. The learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fully fit medically and physically and no note has been made in the service documents of the applicant regarding any disease suffered by him at that time. The learned counsel submitted that the applicant suffered from Dilated Cardiomyopathy while he was posted in High Altitude Area at Leh, J&K, and due to service conditions and he was discharged from service before completion of his extended period of service and thus the applicant was deemed to be invalided out of service being discharged in low medical category held as attributable to military service. The learned counsel further submitted that as per the AGIF policy, a person is eligible for grant of AGIF benefits under the disability scheme if he is discharged/invalided out of service on medical

grounds and his service is cut short due to that medical disability, with no extension of service granted.

5. The learned counsel for the applicant further added that the applicant was a member of the AGIF and used to pay monthly subscription for group insurance scheme for the sake of future benefits through which AGI earns the money by investing in other sources, and thus the applicant is entitled to the benefit of the AGIF scheme and due to the fact that the disability suffered by the applicant was accepted as 'attributable to military service' due to which his service was cut short, for which he is in receipt of the disability pension and the respondents have committed a grave error in not granting the AGIF benefit to the applicant. In order to buttress his submissions, the learned counsel placed reliance on the judgments of the Hon'ble High Court of Delhi in ***Ex Sub Baljor Singh Vs. Union of India and Others [65 (1997) DLT 872]*** and in the case of ***Ex Cpl Ashok Kumar Vs. A.F.G.I.S. & Ors. [WP (C) No. 3119 of 2017]*** decided on 13.12.2010, wherein the disability suffered by the petitioners therein were held to be attributable to the service and thus the AGIF benefits were

granted to them. Hence, the learned counsel for the applicant prayed the present OA may be allowed.

6. Respondent No. 4, Army Group Insurance Fund (AGIF), has filed the detailed counter affidavit on 18.05.2018. The learned counsel for the AGIF submitted that AGIF is a Society registered under the Societies Registration Act XXI of 1860 with the Registrar of Societies on 06.12.1976 and it carries on the activities for the benefit of the Army personnel and their dependents through its insurance scheme on 'no profit and no loss' basis and that it is governed by its own rules and regulations and bye-laws framed by the Society which are approved by the Board of Governors (BOG). The learned counsel narrated the background facts regarding establishment of the AGIF; that it is essentially a self-run group insurance scheme and that every person enrolled in the Army becomes a member of the AGIF and pays a monthly subscription to the fund; that the disability benefit paid by the AGIF is entirely different from the disability pension paid by the Govt. and that the disability benefit schemes were approved by the BOG of the AGIF to compensate those members who were invalidated out of service on medical

grounds and whose service was cut short on or after 01.01.1980 in the medical category 'EEE' with 40% disability or more due to attributable or non-attributable causes, subject to meeting the specified eligibility parameters. The learned counsel submitted that the Disability Benefit Scheme has been amended from time to time by the BOG of the AGIF in its various meetings; and that the BOG in its 18th meeting held on 17.09.1990 decided to review the disability benefits scheme every year including the amendment regarding excluding the personnel who are in receipt of any kind of pension.

7. The learned counsel submitted that the applicant was enrolled on 06.08.1986; during his service, the applicant was placed in temporary low medical category P3 (T-24) due to disability 'Dilated Cardiomyopathy' w.e.f. 10.10.2014 and the applicant medical category was downgraded and he was placed in low medical category P3(Perm) with effect from 03.02.2015 and remained so till his discharge from service i.e. 31.03.2015. The learned counsel further submitted that the applicant was granted extension of service from 21.07.2014 to 11.10.2014 with the low medical category; that during

extension period of service, the applicant was in low medical category (T-24) w.e.f. 10.10.2014 and was downgraded to P3(Perm) due to which he was discharged from that service on 31.03.2015. The learned counsel for R-4/AGIF referring to Para 59(d) of the Army Order 23/2002/AGI and AGIF letter dated 17.10.1991 contended that those personnel granted extension, who were in LMC (Temporary) or Permanent or were in hospital on the crucial date of commencement of extension and subsequently released in LMC permanent or invalided out in category EEE during the currency of the extended tenure are not eligible for disability benefit from the AGIF and since the applicant was in low medical category P3 (T-24) on the date of commencement of extension of his service which was later downgraded to P3(Perm) w.e.f. 03.02.2015 i.e. during the extension period and the applicant was admitted to Command Hospital (WC) Chandimandir on 31.07.2014 and remained admitted there on the crucial date of commencement of extension of service i.e. 06.08.2014, he is not entitled to grant of disability benefit under the Disability Benefit Scheme of the AGIF and also due to the fact that the applicant is in receipt of the disability pension, he is not entitled to get the aforesaid

benefit on this count also. The learned counsel submitted that vide order dated 19.02.2014 passed by the Larger Bench of the AFT in *Meena Devi and others Vs. Union of India & Ors.* [O.A. No. 09 of 2011], the Tribunal observed that the membership, subscription and benefits of AGIF shall be governed by the rules, policies and bye-laws framed therein and shall not be linked with any similar policies or benefits like disability pension, *ex-gratia*, broad-banding etc. as extended by the government. Accordingly, learned counsel for R-4/AGIF prayed for dismissal of the OA.

8. Counter affidavit has also been filed by Respondents Nos. 1 to 3/Union of India on 15.04.2019. The learned counsel for Respondents Nos. 1 to 3 reiterated the facts of the case that the applicant was enrolled in the Indian Army on 06.08.1986 and the applicant being downgraded to the temporary low medical category first and later to permanent low medical category in respect of the disability 'Dilated Cardiomyopathy', he was discharged from the service; thereafter the applicant was granted extension of service with effect from 06.08.2014 to 05.08.2016. The learned counsel reiterated that from 21.07.2014 to 11.10.2014, the applicant

was admitted to Command Hospital (WC) Chandimandir and was placed in P3(T-24) w.e.f. 10.10.2014. The learned counsel submitted that as per Appendix 'B' of IHQ of MoD (Army) letter No. B/33098/AG/PS-2 (c) dated 20.09.2010, the individual should remain in acceptable medical category during the extended tenure as applicable during pre-extended tenure and if there is a drop in the medical criteria at any time during the extended tenure, the individual will be discharged under relevant Army Rules within a period six months after issue of a Show Cause Notice; that after issuing a Show Cause Notice, which was replied to by the applicant vide his letter dated 28.12.2014, the applicant was issued EME Records letter dated 16.01.2015 giving date of discharge as 31.03.2015 due to being in low medical category. The learned counsel further submitted that the applicant was already granted disability pension with effect from 01.04.2015 vide PPO No. D/Corr/12136/2015 dated 29.07.2015. Thereafter, the learned counsel reiterated the relevant provisions and the facts about the ineligibility of the applicant for granting AGIF scheme Disability Benefits as submitted on behalf of R-4/AGIF.

ANALYSIS

9. We have heard the learned counsel for the parties and have perused the record produced before us.

10. The AGIF is governed by the rules and regulations as a Society registered under the Societies Registration Act and has framed its rules and Bye-laws to carry out activities for the benefit of army personnel and their dependents through this insurance scheme. The AGIF disability scheme was introduced to compensate those service personnel who were invalided out of service due to low medical category and whose service was cut short before completion of the terms of engagement and the personnel with the percentage of disablement being 20% or more are eligible to the said benefit. However, there are certain categories of personnel prescribed in the scheme, who are declared ineligible for getting the said benefit. In this regard, Paras 58 and 59 of Part IV of the AGIF Scheme contained in the Army Order 23/2002/AGI with regard to the Disability Benefits are referred to, which read as under :

"PART IV - DISABILITY BENEFITS"

"Para 58. AGIF Disability Scheme was introduced on 01 Jan 80 to compensate those personnel whose service was cut short and were invalided out of service in Medical

category EEE with 40 per cent and above disability. The progressive improvement of percentage of disability criteria was introduced for disability benefit as under :-

<u>Disability Percentage</u>	<u>Medical Category</u>	<u>Eligible date for those Discharged/Invalided Out before Completing Contractual Service on Or after</u>
(a) 40% and above	BEE, CEE or EEE	27 Sep 1987
(b) 30% and above	- do -	01 Oct 1990
(c) 20% and above	- do -	01 May 1992

Para 59 The objective of AGIF Disability Scheme is to provide financial benefit to individual, whose service is cut short due to invalidment or release on medical grounds before completion of the terms of engagement or service applicable to the rank. The disability benefit is paid as a lump sum benefit based on initial assessment by Invalidment Medical Board or Release Medical Board before completing the contractual period of service of the rank and meeting the eligibility conditions. The disability benefit admissible is 50 per cent or as specified of the prevalent insurance cover for 100 percent disability on the date of invalidment and proportionately reduced for lower percentage of disability upto 20 percent or as specified. However, the following categories of personnel are NOT eligible for disability cover :-

- (a) Personnel, whose disability is detected and are awarded disability pension element at the time of proceeding on normal pension/discharge/release on completion of terms of engagement or service limits for the rank/age of superannuation.
- (b) P&T deputationists invalided out of military service but continue in service in their parent department on reversion from Army.
- (c) Personnel proceeding on pension/discharge/ release at their own request or after expressing unwillingness to serve in sheltered appointment being in permanent EEE, CEE or BEE medical category or due to any other reason.
- (d) Personnel granted extension, who were LMC (Temporary) or permanent or were in hospital on the crucial date of commencement of extension and subsequently released in LMC permanent or invalided out in category EEE during the currency of the extended tenure.
- (e) The career of an individual should be cut short, which implies that anyone who serves upto the laid down

age of retirement or service limit for the rank even though with disability (20% and above) is not eligible.

(f) Personnel invalidated out of service due to disease of pre-enrolment origin.

(g) Discharged on disciplinary grounds/undesirable.

(h) Personnel discharged in Low Medical Category due to Alcohol/Drug Dependence Syndrome."

11. On perusal of the aforesaid provision envisaged in Para 59(d), it is clear that the personnel granted extension, who were LMC (Temporary) or permanent or were in hospital on the crucial date of commencement of extension and subsequently released in LMC permanent or invalidated out in category EEE during the currency of the extended tenure, are not eligible for disability cover under the AGIF scheme. In the present case, the applicant after first spell of service of 28 years, was granted two years of extension of service from 06.08.2014 to 05.08.2016. It is evident from the record that the applicant was placed in low medical category P3 (T-24) w.e.f. 10.10.2014 for the disability 'Dilated Cardiomyopathy' and later the applicant was downgraded to low medical category P3(Permanent) w.e.f. 03.02.2015 and due to being in low medical category, he was discharged from service on 31.03.2015. Therefore, it is established and undisputed that on the date of commencement of extension of his service, the

applicant was already in the low medical category. It is also on record that the applicant was admitted to Command Hospital (WC), Chandimandir on 31.07.2014 for diagnosis of 'Dilated Cardiomyopathy' and remained admitted in the hospital till 11.10.2014 and thus was in hospital on the date of commencement of extension period i.e. 06.08.2014. Accordingly, in view of the provisions of Para 59(d) as reproduced hereinabove, the applicant cannot be held entitled to the disability benefit/cover under the AGIF Scheme as the applicant clearly falls in the category (d) of Para 59 which provides that the personnel granted extension, who were LMC (Temporary) or permanent or were in hospital on the crucial date of commencement of extension and subsequently released in LMC permanent or invalided out in category EEE during the currency of the extended tenure, are **not eligible** for disability cover under the AGIF scheme. Thus, the applicant is not eligible for the grant of benefit of the disability cover under the AGIF scheme as prayed for.

12. It is essential to observe that the reliance placed on behalf of the applicant on the verdicts of the Hon'ble High Court of Delhi in *Ex Sub Baljor Singh (supra)* and *Ex Cpl Ashok*

Kumar (supra) is wholly misplaced, as the facts thereof are not in *pari materia* to the facts of the instant case. This is so in as much as in the instant case, the applicant was admitted to the hospital for the diagnosis of 'Dilated Cardiomyopathy' from 31.07.2014 before commencement of the extension of his service from 06.08.2014 to 05.08.2016 and who, in the instant case, in terms of Para 59(d) of the Army Order 23/2002/AGI is ineligible to the grant of the AGIF cover. In the cases of *Ex Cpl Ashok Kumar (supra)* and *Baljor Singh (supra)*, the applicants could not avail of sheltered appointment due to their low medical condition. In the instant case, the applicant was granted extension of service when he was unfit and was under treatment in hospital for the disability in question due to which he was placed in a low medical category and further in terms of Para 59(d) of the Army Order 23/2002/AGI is not eligible to the grant of the AGIF benefits. Furthermore, it cannot be overlooked that vide order dated 29.09.1997 in *UOI Vs. Baljor Singh [Civil Appeal No. 6912 of 1997]*, the Hon'ble Supreme Court has observed categorically that the judgment in *Baljor Singh (supra)* is confined to the facts of that case. Rather, the facts of the instant case are similar to that in the

case of **Ex Sub Clk (SD) Dharam Das Pancheshwar Vs. Union of India & Ors. [O.A. No. 524 of 2019]** decided by the AFT (PB), New Delhi vide order dated 21.12.2023 and the ratio therein from which we find no reason to differ.

CONCLUSION

13. In view of the aforesaid discussion and parameters referred to above, we hold that the applicant is not entitled to the AGIF benefits as per Para 59(d) of the AGIF scheme contained in the Army Order 23/2022/AGI. The O.A. No. of 485 of 2018 is, therefore, dismissed being devoid of merit.

14. There is no order as to costs.

Pronounced in the open Court on this 4th day of September, 2025.

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

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