

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

OA 514/2019

Col Prem Chand (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Rajesh Nandal, Advocate
For Respondents	:	Mr. V Pattabhi Ram, Advocate

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, 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. The reliefs claimed by the applicant in Para 8 are as follows:

- (a) *Quash and set aside the impugned letter No.13101/IC-44790A/ENGRS/MP-6(C)/46/2017/Appeal/AG/PS-4 (Imp-II) dated 26.12.2018 and/or*
- (b) *Direct respondents to treat the disability of the applicant as attributable to or aggravated by military service and grant him disability pension including benefit of broad banding to the applicant with effect from the date of his invalidment, i.e. 60% composite disability is to be treated as 75% as per the policy in vogue of respondents and/or*
- (c) *Direct respondents to pay the due arrears of disability pension with interest @12% p.a. from the*

date of retirement with all the consequential benefits and/or

(d) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.

2. The applicant Col Prem Chand commissioned in the Indian Army on 13th June, 1987. superannuated from service on 31st January, 2017. Since at the time of release from service, the applicant was in low medical category, he was brought before the Release Medical Board which assessed his disabilities, i.e., Proxysmal Atrial Fibrillation @ 40% and Primary Hypertension @ 30% both for life but held to be neither attributable to nor aggravated by military service. The composite assessment was made at 60% for both the disabilities. The Release Medical Board however certified that since the disabilities of the applicant would not interfere in the performance of all kinds of sedentary/ suitable civil work, he was declared fit for civil employment. The onset of both the disabilities, as per medical Board proceedings indicated in Part IV – Statement of Case, is stated to be in May 2016 at HQ Chief Engineer Bareilly Zone, Bareilly Cantt, a peace station. It is further averred by the applicant that the disabilities had been caused due to stress and strain of military service. The

appeal preferred by the applicant for grant of disability pension was rejected vide letter No.1301/IC-44790A/ENGRS(MP6 (c))/46/2017/ Appeal /AG/PS-4(Imp II) dated 26th December, 2018, on the ground that the disabilities declared as NANA had arisen at peace station, therefore, there can't be any stress and strain of military service.

3. Learned counsel for the applicant further pleaded that at the time of enrolment, the applicant was thoroughly medically examined, found mentally and physically fit for service and there is no note in the service document to show that at the time of enrolment he was suffering from any disease or more particularly the disabilities as detailed in the RMB proceedings and, therefore, the applicant be granted disability pension along with rounding off benefits and arrears thereof. It is further averred that denial of disability pension to the applicant is wrong and against the provisions of Pension Regulations.

4. On the contrary learned counsel for the respondents through the contentions raised in the counter affidavit have submitted that entitlement of disability pension is governed by the eligibility conditions enumerated in Regulation 81 of

Pension Regulations for the Army 2008, Part I specifically providing that disability pension consisting of service element and disability element may be granted to an Army personnel invalided out of service on account of disability attributable to and aggravated by military service which element is missing in the instant case. It is further submitted that the opinion of the Medical Board is recommendatory in nature and can be over ruled by Competent/Admin Authority. It is the contention of the respondents that the case of the applicant cannot be considered for grant of disability element of pension in terms of Regulation 37 or 81 of the Pension Regulations for the Army 2008 (Part I) for the reason that the applicant was discharged on his attaining the age of superannuation and his disabilities were declared as NANA.

5. We have heard learned counsel for the parties and have also gone through the Release Medical Board Proceedings and other documents available on record.

6. On consideration of the submissions made on behalf of either side, it is worthwhile to observe that there is a strong association between Proxysmal Atrial Fibrillation and Primary Hypertension and they go hand in hand and supplement each other. One of the causes of occurrence of Proxysmal Atrial

Fibrillation is stress and strain of any type and in this case the military service. Primary Hypertension is a major risk factor for the development of Proxysmal Atrial Fibrillation. Therefore, we hold that both the disabilities of the applicant had arisen due to stress and strain of military service.

7. The consistent view taken by this Tribunal qua the disability of primary hypertension is based on the law laid down by the Hon'ble Supreme Court in the case of Dharamvir Singh Vs Union of India & Others [(2013) 7 SCC 316], the Entitlement Rules for Casualty Pensionary Awards, 1982, and observations for the purpose of deciding the issue before us made in Para-28 of the said judgment read as under:-

“(i) XX

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(ii) A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service. [Rule 5 r/w Rule 14(b)].

(iii) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally. (Rule 9).

(iv) XX

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(v) If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service. [14(b)].

(vi) If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons. [14(b)];"

8. This Tribunal in a catena of cases has observed that peace stations have their own pressure of rigorous military training and associated stress and strain of the service. It may also be taken into consideration that most of the personnel of the armed forces have to work in the stressful and hostile environment, difficult weather conditions and under strict disciplinary norms.

9. The 'Entitlement Rules for Casualty Pensionary Awards, to the Armed Forces Personnel 2008, provide that for award of disability pension/special family pension, a causal connection between disability or death and military service has to be established. So far as attributability and aggravation of the disease is concerned, it is provided that the disease has arisen during the period of military service and it has been caused by the conditions of employment in military service.

10. The applicant has served in the Indian Army for about 30 years. The onset of the disabilities of "Proxysmal Atrial Fibrillation and Primary Hypertension" for the first time was noticed at Bareilly Cantt in May 2016 after 29 years

of long service. The accumulated stress and strain of such a long service on the applicant cannot go unnoticed and hence the disabilities have to be conceded aggravated by military service. In view of the fact that we have held the disabilities of the applicant attributable to and aggravated by military service and the applicant has superannuated at his prescribed age, the contention of the respondents that the applicant is not entitled to disability pension as per Regulations 37 and 81 of the Pension Regulations for the Army (Part I) 2008 needs no consideration.

11. In view of the aforesaid, the applicant cannot be denied his rightful entitlement for disability element of pension in respect of the disabilities "Proxysmal Atrial Fibrillation and Primary Hypertension". Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 60% rounded off to 75% for life with effect from the date of his discharge, i.e. 31st January, 2017 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.

12. The respondents are thus directed to calculate, sanction, and issue the necessary PPO to the applicant within a period of three months from the date of receipt of copy of this order.

13. Pending miscellaneous application, if any, stands closed.

14. No order as to costs.

Pronounced in the open Court on ²⁶ day of May, 2025.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

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