

COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA 961/2016

Col Daljit Singh Sandhu (Retd) ... Applicant
Versus
Union of India and Ors. ... Respondents

For Applicant : Ms. Pallavi Awasthi, Advocate
For Respondents : Mr. Arvind Patel, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P.MOHANTY, MEMBER (A)

ORDER

Invoking Section 14 of Armed Forces Tribunal Act, 2007, the instant OA has been filed praying for grant of disability pension to the applicant for disabilities-Primary Hypertension @30% and Apical Hypertrophic Cardiomyopathy @20% in addition to the disability pension granted for other disabilities and the subsequent rounding off.

2. The factual matrix of the case is that the applicant was commissioned in the Indian Army on 14.03.1981 and retired on 31.03.2013. During the Release Medical Board conducted prior to his retirement, he was found to be suffering from disabilities (i) Obesity @1-5%

connection of the disability is clearly established with the military service.

5. Placing reliance on the judgement of the Hon'ble Supreme Court in Dharamvir Singh Vs 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 Army 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 military service.

6. Learned counsel argues that the fact that the applicant was obese has no implication whatsoever on the onset of disabilities, and that the weight is a factor which keeps on fluctuating with time, and it can increase or decrease with time, therefore, not having any implication anyhow on the disabilities.

7. Per Contra, learned counsel for the respondents submits that under the provisions of Rule 53(a) of the Pension Regulations for the Army, 2008 (Part-I), the primary condition for the grant of disability pension is invalidation

out of service on account of a disability which is attributable to or aggravated by military service and is assessed @ 20% or more.

8. Relying on the aforesaid provision, learned counsel for respondents further submits that the aforesaid three disabilities of the applicant were assessed as “neither attributable to nor aggravated” by military service and not connected with the military service and as such, his claim was rejected; thus, the applicant is not entitled for grant of disability pension due to policy constraints.

9. Learned counsel further argues that the weight of the applicant was 85 kgs in 1998, and that gradually gained weight and by the time of onset of the disability, applicant was overweight by around 40 kgs, purely due to dietary indiscretion, lack of exercise and a sedentary lifestyle, and his own lack of health consciousness, hence, the disabilities can not be held attributable to or aggravated by service as he is solely responsible for his unreasonable weight gain in violation of the service requirements of maintaining physical fitness at all times.

10. On the careful perusal of the materials available on record and also the submissions made on behalf of the

parties, we are of the opinion that it is not in dispute that the extent of disability (i) was assessed to be less than 20% which is the bare minimum for grant of disability pension in terms of Regulation 53 (a) of the Pension Regulations for the Army, 2008 (Part-I), therefore, not warranting our interference, whereas, the two disabilities (ii) and (iii) have already been held as aggravated, and the applicant is being granted Disability Pension for the same. Now, the only question that arises in the above backdrop is whether the rest of the two disabilities (iv) - Primary Hypertension @30% and (v) Apical Hypertrophic Cardiomyopathy @20%, assessed at 20% or more, and suffered by the applicant were attributable to or aggravated by military service.

11. We find that the applicant is constantly overweight ranging between 23 to 40 kgs in the period from 15.05.1998 to 15.09.2012 with his actual weight ranging between 85 -104 Kgs as against the Ideal weight of 63 Kgs. We have further analyzed the all the 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 organization cannot be held liable for the own actions of the applicant.

12. We cannot shy away from the fact, that the disabilities - PHT and Cardiomyopathyis 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.

13. Before concluding, it is relevant to point out that the association of obesity 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.

14. 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, behavioral and even social origins, and obesity is one of the most prevalent risk factors for its development.

15. 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.

16. 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.

17. Applying the above parameters to the case at hand, we are of the view with respect to disabilities of PHT & Apical Cardiomyopathy, 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.

18. Even if we consider the contention of the applicant that the applicant has gained weight due to disability of Osteoarthritis and Lumbar Spondylosis being detected, we note that the onset of the aforesaid disabilities in Sep 2004, which is much later than the applicant being diagnosed with obesity in Oct 1994.

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

20. Consequently, the OA 961/2016 is dismissed.

21. However, needless to say, the applicant is entitled to rounding off of disability pension from 40%

to 50%, as prayed for at Para 8(b), of OA, which if not being paid, shall be paid to him within three months from the date of this order. However, the arrears of rounding off shall be restricted to three years from the date of filing of this OA.

22. No order as to costs.

23. Pending miscellaneous application, if any, stands disposed of.

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

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

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

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