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

OA 230/2019

Ex WO Kaushalendra Tripathi ..... Applicant
VERSUS
Union of India and Ors. ..... Respondents

For Applicant : Mr. Virender Singh Kadian, Advocate
For Respondents : Mr. D K Sabat, Advocate

CORAM

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

O R D E R

Invoking the jurisdiction of this Tribunal; under Section 14, of the Armed Forces Tribunal Act, 2007, the instant OA has been filed praying for the following reliefs:

> ***(b) To Direct respondents to treat the disabilities ID ID (i) BILATERAL HIGH FREQUENCY SENSORINEURAL HEARING LOSS H 90209.0 assessed less than 19% for life, ID (ii) TYPE II DIABETES MELLITUS E11 Z09.0 assessed @20% for life, ID (iii) PRIMARY HYPERTENSION 110.0209.0 assessed @ 30% for life and***

compositely assessed 53% for life as attributable to/aggravated by military service and grant disability element of pension from the date of retirement with benefit of broad banding along with arrears of disability element of pension.

BRIEF FACTS

2. The applicant was enrolled in the Indian Air Force on 22.02.1978 and discharged from service on 31.01.2017 under the clause "On attaining the age of superannuation" after rendering total 38 years and 343 days of regular service. The Release Medical Board (RMB) dated 10.06.2016 found the applicant fit to be released in low medical category A4G4(P), for the disabilities of (i) Bilateral High Frequency Sensorineural Hearing Loss assessed @ 19% for life held to be aggravated by service (ii) Diabetes Mellitus Type-II assessed @ 20% for life (iii) Primary Hypertension assessed @ 30% for life and (iv) Obesity assessed @ Nil for Life all held to be neither attributable to nor aggravated by military service. The percentage of composite disabilities was assessed to be 50% and the net qualifying percentage for the disabilities was nil for life.

3. The applicant's claim for disability pension was rejected by the competent authority vide letter no. RO/3305/3/Med dated 26.08.2016. The outcome was communicated to the air veteran vide letter No. Air HQ /99798/1/660733/O1 /17 /DAV/DP/RMB dated 30.09.2016 and he was advised to prefer an appeal to the appellate committee within six months from the date of receipt of the rejection letter.

4. Accordingly, the applicant preferred his first appeal/representation dated 07.11.2016 which was processed and rejected vide letter no Air HQ /99798 /5 /108 /2017 /660733/DP/AV-III(Appeals) dated 30.11.2018 stating that the disabilities which the applicant suffers from are neither attributable to nor aggravated by military service for the reasons mentioned therein. Aggrieved by the rejection of the disability pension claim from the respondents, the applicant has filed this OA.

CONTENTION OF THE PARTIES

5. It is stated on behalf of the applicant that he is a "Weapon Fitter" by trade and on successful completion of his

training the applicant was posted to various Air Force units in varied climatic and geographical conditions, during his 39 years of long service in the Air Force.

6. It is further submitted that in addition to conditions of service, dietary compulsions of military life including frequent changes in weather and social environment at different geographical locations were the main causes of stress and strain to the applicant.

7. The learned counsel for the applicant submitted that the instant case is squarely covered by the judgments of the Hon'ble Supreme Court in the case of ***Dharamvir Singh v. Union of India and others*** (2013) 7 SCC 316, ***Union of India & Ors. vs. Manjit Singh*** AIR 2015 SC 2114, ***UOI & Ors Vs. Angad Singh Titaria***, 2015(5) JT 478, 2015(2) SCALE 640, 2015 (5) SLR 403, AIR 2015 SC 1898, and ***Union of India & Ors. Vs Rajbir Singh*** (2015) 12 SCC 256.

8. Per contra the learned counsel for the respondents submits that the Primary Hypertension, Diabetes Mellitus Type-2 disabilities are basically a lifestyle related disorder and

in the case of the applicant it had its onset in peace station. Reliance is placed on two decisions of a Coordinate Bench of this Tribunal in the case of ***Ex HFO Gyanendra Singh vs Union of India & Ors*** in O.A 1656/2016 and ***Ex MWO Ravi Kant Gupta vs Union of India & Ors*** in O.A 47/2020.

9. Per contra the contention of respondents is that the applicant was overweight and was advised to reduce his weight and the disabilities of Primary Hypertension and Diabetes Mellitus are basically lifestyle related disorder and have relation to his overweight condition. It is further submitted that prior to onset of the disabilities, the applicant has served only in peace stations since 1978 and the onset of the disability occurred in May 2015 and there has been no close time association of military service with onset and progression of the disability and hence, the disabilities are NANA as per para 43 of GMO (Military Pension) 2008 and para 26 of Chapter VI of the 'Guide to Medical Officers (Military Pension), 2008. The respondents have submitted the weight chart of the applicant which showeth as under:-

Date	Type of Med	Actual	IBW	BMI	WHR	Advice

	Exam	Weight in KG	(In KG)			
30 Jan 01	Annual	73	68	-	-	-
13 Jun 02	Extension of service	72	66.5	-	-	-
28 Jul 03	Annual	73	66.5	-	-	-
11 Oct 06	Annual	73	66.5	24.67	-	-
01 Dec 06	Annual	73.5	66.5	24.84	0.89	-
24 Sep 08	Annual	78	67.5	26.30	0.93	To reduce weight dietary control & regular exercises.
09 Dec 09	Annual	84	69	28.80	0.88	To reduce weight dietary control & regular exercises.
23 Sep 10	Annual	75	69	25.00	-	-
21 Oct 11	Annual	80	68	26.70	0.88	To reduce weight dietary control & regular exercises.
29 Nov 12	Annual	80	68	26.70	0.88	To reduce weight dietary control & regular exercises.
26 Aug 13	Annual	81	68	27.07	-	To reduce weight dietary control & regular exercises.
30 Dec	Annual	78	68	26.06	0.89	To reduce weight

14						**dietary control & regular exercises.**
07 Dec 15	**Initial**	**82**	**68**	**27.39**	**0.96**	**To reduce weight dietary control & regular exercises.**
19 May 16	**Recategorization**	**82**	**68**	**27.39**	**1.05**	**To reduce weight dietary control & regular exercises.**
10 Jun 16	**RMB**	**82**	**68**	**27.39**	**1.05**	**-**

10. The learned counsel for the respondents also submitted that the applicant was overweight.

ANALYSIS

11. It is a fact that the applicant vide RMB dated 10.06.2016 has been assessed with the disabilities of Type II Diabetes Mellitus @ 20% and Primary Hypertension @ 30% and which have been adjudged as NANA by the RMB.

12. A bare perusal of the posting profile of the applicant at Annexure A-2 of the RMB reveals that the applicant was posted throughout at peace station prior to the onset of the disability which occurred whilst he was posted to Pune in May

2015, which is also a peace station. Though it has been observed by this Tribunal in a catena of cases that peace stations have their own pressure of rigorous military training and associated stress and strain of the service, but a perusal of the weight chart of the applicant from January 2001 to June 2016 mentioned hereinabove indicates that the applicant was overweight and the applicant was advised to reduce his weight from September 2008 till his retirement. The applicant in May 2015 when the onset of disability occurred was overweight by 20.58%.

13. Further, the Part-II Medical Examination of the RMB reveals that the applicant was overweight throughout and even at the time of the RMB, the actual weight of the applicant has been indicated as 82 kg against an ideal weight of 68 kg. Thus, at the time of RMB, the applicant was overweight by 14 kg which indicates that the applicant failed to maintain the ideal weight which he could have managed by regular exercise and restricted diet, as he was living with this family under own arrangement.

14. There are various medical reviews available suggesting that those who are overweight or obese, are at risk of having high blood pressure in life. The publication released by World Health Organization titled "Hypertension" reads to the effect:-

"Hypertension (high blood pressure) is when the pressure in your blood vessels is too high (140/90 mmHg or higher). It is common but can be serious if not treated.

People with high blood pressure may not feel symptoms. The only way to know is to get your blood pressure checked.

Things that increase the risk of having high blood pressure include:

- **older age**
- **genetics**
- **being overweight or obese**
- **not being physically active**
- **high-salt diet**
- **drinking too much alcohol**

Risk factors

- **Modifiable risk factors include unhealthy diets (excessive salt consumption, a diet high in saturated fat and trans fats, low intake of fruits and vegetables), physical inactivity, consumption of tobacco and alcohol, and being overweight or obese."**

15. In so far as the disability of Type II Diabetes Mellitus is concerned, there is again direct correlation of the disease and the weight of the person. The publication released by the

National Library of Medicine (National Center for Biotechnology Information) NLM, titled "Diabetes" reads to the effect:-

> **"The accumulation of an excessive amount of body fat can cause type 2 diabetes, and the risk of type 2 diabetes increases linearly with an increase in body mass index. Accordingly, the worldwide increase in the prevalence of obesity has led to a concomitant increase in the prevalence of type 2 diabetes. The cellular and physiological mechanisms responsible for the link between obesity and type 2 diabetes are complex and involve adiposity-induced alterations in β-cell function, adipose tissue biology, and multi-organ insulin resistance, which are often ameliorated and can even be normalized with adequate weight loss."**

It can thus be inferred that overweight can be the cause of the lifestyle disorder of Primary Hypertension and Diabetes Mellitus type–II. So far as reliance placed by applicant on the

decisions of the Hon'ble Supreme Court in case of ***Dharamvir Singh*** (Supra), ***Manjit Singh*** (Supra) and ***Angad Singh Titaria*** (Supra) is concerned, they are of no help to the applicant in view of the peculiar facts and circumstances of the instant case.

16. We are fortified in our view by order passed by this Tribunal, in OA 1656/2016, in case of ***Ex HFO Gyanendra Singh vs Union of India & Ors,*** and OA 47/2020 in case of ***Ex MWO Ravi Kant Gupta vs Union of India & Ors*** where also the applciant suffered from obesity and therafter from 'Primary Hypertension and Diabetes Mellitus type-II. The Tribunal came to the conclusion that it cannot be said to be due to military duty or aggravated due to military service. As such the application was dismissed.

17. In so far as the disability of (i) Bilateral High Frequency Sensorineural Hearing Loss assessed @ 19% for life, presently as the matter is *sub judice* having been referred to the Larger Bench of the AFT, Principal Bench, New Delhi in ***Ex PO ME Tajinder Singh*** vs. ***UOI & Ors***. in OA 828/2020 on the issue, *"whether in view of the DGAFMS letter No.*

16036/RMB/IMB/DGAFMS/MA(Pens)02 dated 14.06.2009, whereby it is clear that Sensoneural Hearing Loss can be assessed below 20%, it is required to be assessed at not less than 20%, in view of the para 20 of the GMO (MP) 2008", the same is left open with liberty to renew his prayer, if so, advised after the decision on the pending reference.

CONCLUSION

18. In view of the aforesaid contentions and the parameters referred to above, and the fact that the applicant was overweight and the correlation of Primary Hypertension and Diabetes Mellitus Type 2 with weight, we are of the view that the weight of the applicant is a contributory factor towards the onset of the Primary Hypertension and Diabetes Mellitus Type 2. We therefore, find no reason to differ from the finding of the RMB with regard to disabilities (ii) Diabetes Mellitus Type II and (iii) Primary Hypertension. The claim of applicant for grant of disability element of pension for disabilities (ii) Diabetes Mellitus Type II and (iii) Primary Hypertension are rejected. The Original Application 230 of 2019 with regard to

grant of relief for ID (ii) Diabetes Mellitus Type II (iii) Primary Hypertension stands dismissed.

19. As regards the claim of disability element of pension for disability (i) Bilateral High Frequency Sensorineural Hearing Loss, the same is left open, with liberty to the applicant to renew his prayer after the decision in the pending reference in OA 828/2020.

20. There is no order as to costs.

Pronounced in open Court on this 04th day of September, 2025.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

Pooja