

**COURT No. 2, ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**O.A. No. 421 of 2015 with M.A. No. 923 of 2017**

**In the matter of :**

**Cpl K.K. Chaurasia**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant : Mr. Ajit Kakkar, Advocate**

**For Respondents : Mr. V. Pattabhi Ram, Advocate**

**CORAM :**

**HON'BLE MS JUSTICE SUNITA GUPTA, MEMBER (J)**

**HON'BLE LT GEN PHILIP CAMPOSE, MEMBER (A)**

**O R D E R**

**M.A. No. 923 of 2017 :**

The applicant has filed this Miscellaneous Application with a prayer that an Independent Medical Board carry out a fresh medical examination of his condition with regard to his permanent low medical category A4G2 (P) on account of psychiatric disability 'Schizophrenia', without reference to the results of previous medical boards. To that extent, he has challenged the findings and opinion of the Medical Board dated 17.05.2016 (approved on 29.08.2016) which are reproduced as hereunder :

***"19. Medical Category now recommended with duration : A4G4 (P)***

**Date & Place of next recat Board : 17 May 2017**  
(nearest service hospital)

**20. Percentage of disability (only for permanent LMC)**

- (a) Previous disablement : 40%  
 (b) Present disablement : 40%  
 (c) Reasons for variation if any : N/A

**21. Any specific restriction regarding employment - Unfit for HAA. Combat conditions. Unfit to handle weapons. Other restrictions as per IAP 4303 IV Edition.**

**22. Instructions given to individual by the President of the Board. You are placed in low med cat A4G4 (P), subject to approval by higher medical authorities. You are to follow the instructions as given in col No. 19 & 21.**

**Adv. : Review when due with AFMSF-10X03 Copies. To report to SMC one month prior to due date. Fortnightly review by AMA and monthly review by at MOPD/PSYOPD.**

Sd/-

Date : 17 May 2016 Signature of individual

**OPINION OF MED BOARD : During review by Sr Adv (Psy.) individual was recommended to be placed in Med Cat A4G2 (P) and also put him on employability restrictions (Unfit for HAA Combat conditions and unfit to handle weapons), which does not commensurate with para 5.4.10 of IAP 4303. Hence Medical Board recommends him to be placed in Med Cat A4G4 (P).**

Place : 27 Wg AF

Sd/-

Date: 17 May 2016 Member Signature of President”

2. The applicant submits that he is aggrieved by the fact that all periodic medical evaluations since January 2008 have taken a view that he is suffering from 'Schizophrenia'. On the other hand, it is only in May 2017 that the medical board recommended that his trade be changed. The applicant contends that he was always fit medically and the assessment by the medical boards has been erroneous and unfair and thus needs to be reviewed by an Independent Medical Board. Further, the order for recovery of Special Forces Allowance for the period from 15.04.2010 to 22.06.2012 must be set aside.

3. On the other hand, it has been submitted on behalf of the respondents that Form 10 was raised on the applicant only because he was displaying symptoms of psychiatric illness, as substantiated by the fact that repeated psychiatric evaluations have found him suffering from Schizophrenia. Respondents have contended that medical boards comprise of independent set of officers without any favour, prejudice, bias or otherwise and the recommendations made by the board are independent in nature. Medical categories are decided purely based on

the Specialist's opinion which is based on the clinical condition of the patient.

4. After careful consideration, neither do we find evidence of any bias or malafide in the actions of various medical boards, nor has the applicant submitted any such evidence. Just finding the applicant as suffering from a psychiatric ailment cannot be construed to be evidence of bias against him. Hence, we find no merit in his arguments and the MA is disallowed.

**O.A. No. 421 of 2015 :**

5. Aggrieved by the action of the respondents of stopping/recovering the Special Forces Allowance earlier granted to him, on the grounds that he is a low medical category, the applicant, who is a serving Corporal of the Indian Air Force, has filed this OA seeking the following reliefs :

- (a) To call all relevant medical records since 2007 by which various classified specialists have rendered their opinion to consider the case of applicant, in view of Form-10 raised by Commanding Officers, and quash the same.

- (b) To direct the Respondents to conduct fresh medical examination by Independent Medical Panel without any previous references.
- (c) To direct the respondents to grant Special Force Allowance to the applicant, to be paid with 18% interest.

6. Heard the learned counsels on both sides and perused the pleadings and documents on file.

7. Brief facts of the case, as averred by the applicant, are that he was enrolled in the Indian Air Force on 27.09.2005 in the S trade and underwent training at GRTC at Air Force Station, Hindon, after which he passed out and was posted to 605 Garud Flight with effect from 25.06.2007 to function in the S (Garud) trade. Less than two months later, on 17.08.2007, the applicant was sent by his CO to 166 Military Hospital for psychiatric evaluation after Form 10 was raised on him. The applicant was discharged from hospital on 05.02.2008 after downgradation to low medical category A4G4 (Temp.) for Schizophrenia. Subsequently, on 27.01.2010, the applicant's low medical category was modified to A4G4 (Permanent). The applicant avers that, consequently, the grant of Special Forces allowance was discontinued retrospectively with effect from 25.06.2007 as the applicant was in low medical category. It is the applicant's case that he got himself examined at AIIMS on

11.10.2010, where he was made to undergo ECG and MRI tests, after which he was found medically fit. Thus, he contends that his continuation in low medical category was unfair, moreso as it resulted in stoppage of his Special Forces Allowance and even recovery of past payments of the same, which actions he claims are illegal and arbitrary. The applicant bases this claim on the fact that, though his medical category was downgraded, he continued to be held on the strength of a Garud Unit against a Garud vacancy, where he was performing related tasks and thus, he was entitled to grant of Special Forces Allowances. Further, even if he was doing administrative tasks within a Garud Unit, this would tantamount to doing Garud tasks in the S trade till such time his trade was changed to the administrative trade. Thus, he has filed this OA for restoration of Special Forces Allowance and payment of arrears for the period that the allowance has been denied/recovered from him.

8. Learned counsel for the applicant has referred to Paras 2, 3 and 4 of Air Headquarters Policy vide letter No. Air HQ/25792/11/D Accts dated 27.01.2005 which gives out eligibility conditions for grant of Special Force Allowance, the same is reproduced as hereunder :

**“Eligibility conditions**

2. The Special Force Allowance will be admissible to those officers and PBORs who fulfill the following conditions :
- (a) This allowance will be admissible to the personnel who have attained specialization in one of the fields viz. divers, praras or commandos and are posted against Garud vacancy.
- (b) The allowance will be authorized from the date of posting against Garud vacancy/vacancies for which Special Force allowance is authorized.
- (c) In addition to Special Force Allowance, the Garuds shall be entitled to draw the applicable Field Area Allowance and HAA where they are deployed in areas where these allowances are also admissible. However, when deployed on CI Ops, they shall be entitled in addition only to applicable CI Ops Allowance depending on the area of CI Operations.
- (d) Officers/SNCO/Airmen holding administrative appointments of Garud are also eligible to draw the Special Allowance provided they fulfill eligibility criteria mentioned in sub Para (a) above.
- (e) Personnel proceeding on course of instruction lasting 10 weeks or more will continue to receive the Special Force Allowance provided the total number of personnel (including the personnel on courses of instruction) drawing Special Force Allowance does not exceed the authorised establishment of Garud Flight and on conclusion of the course, the personal returns to Garud duties.
- (f) Special Force Allowance will continue to be admissible during Annual Leave.

*(g) In ordinary cases of sickness of injuries, Special Force Allowance will continue for that portion of the Sick Leave, which represents Annual Leave.*

*(h) The allowance will be continued during the absence on account of injuries received in action against enemy not exceeding 91 days.*

*Action by Commanding Officer*

*3. Commanding Officer shall furnish certificate as provided in the appendix 'A' to this DACL for further action by Adjutant.*

*Action by Adjutant*

*4. Promulgate POR for authorizing Special Force Allowance under section-I as per the certificate rendered by the Commanding Officer and forward the same to AFCAO in normal manner for crediting the amount in IRLA. Promulgate cessation POR on receipt of the certificate from Commanding Officer on withdrawal of the individual from Garud Duties and forward to AFCHO for necessary action."*

Learned counsel contends that nowhere in the aforesaid letter is it mentioned that the applicant can be denied Special Forces Allowance because he is low medical category (LMC). Accordingly, counsel asserts that the applicant, as per Para 2 (b), as he was holding a vacancy of Garud and performing such duties, should be entitled to the Special Forces Allowance.

9. Learned counsel contends that the applicant was held against the vacancy of a Garud and hence the contention of the respondents that he was transferred to the administrative trade is baseless.

10. Further, counsel has referred to the fact that a number of Garud personnel, including Wing Commander J.J. Singh, Joint Director (Garud) at Air HQ, who was in low medical category, continued to draw Special Forces Allowance, as evident from the latter's salary slip of August 2014.

11. Learned counsel for the respondents, on the other hand, controverts the arguments made on behalf of the applicant. Counsel contends that members of the Garud (Commando) category can be paid Special Forces Allowance only if they are fit in medical category A4G1, which is the specified medical category for paratroopers as per AFO 948/76. Counsel has submitted that, on initial reference for medical and psychiatric evaluation in 2007 due to display of abnormal behaviour, the CT scan of the applicant was conducted which showed old healed Granulomas in both parietal lobes and, as the Neuro-Physician opined that it was a case of Schizophrenia, he was medically downgraded and provided treatment accordingly. The history of medical category of the applicant has been explained as follows :

<b>Sl</b>	<b>Time From</b>	<b>To</b>	<b>Medical Category</b>
<b>01</b>	<b>04 Feb 2008</b>	<b>26 Jan 2010</b>	<b>A4G4 (T)</b>
<b>02</b>	<b>27 Jan 2010</b>	<b>08 Feb 2011</b>	<b>A4G4 (P)</b>
<b>03</b>	<b>09 Feb 2011</b>	<b>09 Dec 2012</b>	<b>A4G2 (P)</b>
<b>04</b>	<b>10 Dec 2012</b>	<b>08 Jan 2014</b>	<b>A4G4 (P)</b>

05	09 Jan 2014	15 Mar 2015	A4G3 (P)
06	16 Mar 2015	Till date	A4G4 (P)

12. During review carried out by psychiatrist of the applicant on 09.11.2012, he opined that the applicant was of below average competence and motivation, performed unsatisfactorily under stress, had average general outlook and social interactions, and was aggressive, unpunctual and ill disciplined. He was recommended to work only under supervision and placed under psychiatric surveillance.

13. Further, counsel referred to the special tasks assigned to personnel of a Garud Flight to highlight that such complex tasks can be performed only if Garud personnel are fully fit, physically, mentally and medically. These are as follows :

- “(a) Emergency response and Quick reaction Force at critical and strategic air bases and Mobile Units.**
- (b) Force protection of IAF assets.**
- (c) Search and Rescue during peace.**
- (d) Combat Search and Rescue during war and hostilities.**
- (e) Counter Terrorism in the event of threat to AF bases and assets.**
- (f) Disaster Relief during calamities.**
- (g) Air Sea Rescue/Anti-hijacking operations.**

**(h) Special Missions in the operational interest of  
Air Force/ Sister services/ National Interest.”**

14. Learned counsel asserts that, since the personnel posted to these Garud Flights are assigned with special tasks, it becomes paramount to be physically fit and mentally agile at the highest levels at all times to undertake the responsibility and discharge their duties in a befitting manner. The decision to stop SF Allowance was made purely on the interpretation of DACL 03/2005 and guidelines on the subject issued by the Competent Authority. On 01.08.2012, he put up an application for interview with the Station Commander and on 02.08.2012, an application for change of section, admitting that he was not fit to perform the trade duties and various physical tests in Garud Flight. The applicant also further stated that he is aware that he is not eligible to draw SF allowance and will not claim the same for the duration of attachment to other section at any stage till the time deployed on SF duty. The Station Commander, after considering his request, deployed him to work in Chief Administration Office Section w.e.f. 03.08.2012.

15. Counsel submits that the applicant had put up a representation dated 08.11.2012 for the Personnel Occurrence Report (POR) action for grant of Special Forces Allowance w.e.f.

25.06.2012, which was not approved with the following remarks :-

***“Present Medical Category of the applicant is A4G2 (P). As per revised Training Policy 2011 : IAF (S) trade, medical standards should be in A4G1. Presently the applicant is not deployed in SF duties and is attached out of 607 Garud Flight and not doing any SF duties. As per his General Application dated 02 Aug 12, he clearly stated that “I will not be eligible to draw SF allowance and I will not claim the same for the duration of the attachment to other section any time now or later, till the time deployed on SF duty”. Air warrior is attached out to C Adm O Section on 03 Aug 12 and presently working in IT section, wherein he is not performing any SF duties. Hence not approved.”***

Thus clearly, the applicant was not entitled to Special Forces Allowance as he was not performing Garud duties.

16. With regard to the applicant's contention that a number of Garud personnel, including the Joint Director (Garud) at Air HQ, were receiving Special Forces allowance despite being low medical categories, the respondents have submitted that the Special Forces Allowance in respect of such personnel had been granted erroneously and has since been withdrawn.

**Consideration :**

17. We have given careful consideration to the arguments on both sides and find that the primary issue before us is whether the applicant, who was posted to a Garud (Special Forces) flight, is entitled to continue drawing Special Forces Allowances even after he was downgraded to low medical category A4G4 (P) being a case of Schizophrenia (Old).

18. The applicant has alleged malice against him in respect of Respondent No. 5, viz. Commanding Officer 507 Garud Flight, and blames him for having denied him Special Forces allowance by getting him psychiatrically evaluated without reason, which resulted in his medical downgradation. However, considering the fact that the applicant was displaying abnormal behaviour which resulted in his being referred to the psychiatrist and the latter having found symptoms of abnormality, he concluded that the applicant was suffering from Schizophrenia, we find no reason to attribute malice on behalf of Respondent No. 5.

19. However, we find that, as specified in HQ WAC letter dated 30.07.2014, Garuds who are temporary medical category cannot be denied Special Forces allowance. The respondents have not shown us any policy of that period which supported their denial of SF Allowance for that period. However, this

aspect has been clarified subsequently further in Air Force Order (AFO) 22/2016 to the effect that temporary medical unfitness in terms of low medical category, viz. category below A4G1, either continuously or cumulatively for the same disability or for additional disability for a period of two years or more, or permanent medical unfitness will result in removal from Garud trade duties and cessation of Special Forces Allowance. The respondents have contended that the applicant remained continuously in temporary low medical category A4G4 from 04.02.2008 to 26.01.2010 and permanent medical category thereafter, during which period, he was not employed in Garud duties and thus, was not entitled to Special Forces allowance. Thus, the respondents were not wrong in having removed him from SF duties and stopped his Special Forces Allowance and recovered amounts paid to him erroneously. Subsequently, even though he was upgraded to A4G1 category, he was not allowed to handle weapons, which constraint resulted in change of his trade in keeping with existing rules and in accordance with written application submitted by him in 2012.

20. Accordingly, we find that the applicant cannot be considered fit for Garud duties in view of his previous history of Schizophrenia and the restriction put on him on handling of weapons and thus, cannot be reverted to Garud duties. It is

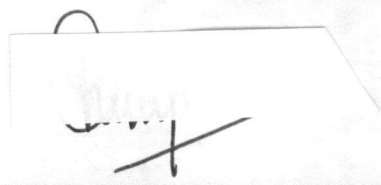
obvious that performance of Garud (Special Forces) duties requires the highest levels of physical, mental and medical fitness, which the applicant, keeping his medical history in view, apparently does not possess. Nevertheless, till such time he remained a temporary medical category, there were no grounds to stop his Special Forces allowance or thereafter recover amounts already paid to him for that period. To that extent, in our opinion, contents of AFO 22/2016 cannot be applied retrospectively with a view to deny Special Forces allowance or recover amounts already paid to him as per earlier rules.

21. In the result, we do not find merit in the applicant's prayer for reinstatement as a Garud and the same is dismissed. However, keeping in view that AFO 22/2016 could have been put into effect only prospectively, we find that the applicant was entitled to Special Forces allowance from 25.06.2007 to 26.01.2010, during which period he was in A4G1 or A4G4 (Temp.) medical category. Hence, he should be paid Special Forces allowance for that period. Any amount withdrawn or recovered from him for this period be returned to him. Action be taken accordingly within four months, *failing which*, the amount shall carry 6% interest.

22. No order as to costs.

Pronounced in open Court on this 20<sup>th</sup> day of January,  
2020.

[JUSTICE SUNITA GUPTA]  
MEMBER (J)

  
[LT GEN PHILIP CAMPOSE]  
MEMBER (A)

/ng/

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

RA 11/2020 in OA 421/2015

Cpl KK Chaurasia ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate  
For Respondents : Mr. V Pattabhi Ram, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

Vide the instant RA filed by the Applicant under Rule 18 of AFT (Procedure) Rules, 2008, the applicant seeks review of the Order passed by this Tribunal on 20.01.2020 in OA No.421/2015. The applicant seeks the following reliefs in the present RA:-

*“(a) To approve this review application in OA 421/2015 to grant SF Allowance to the applicant from 25.06.2007 till the date AFO 22/2016 came into effect.*

*“(b) To pass any such direction as deemed fit by the Hon'ble Court in the facts and circumstances of the case.”*

2. The direction given by this Tribunal vide the aforesaid Order dated 20.01.2020 reads as under:-

*“21. In the result, we do not find merit in the applicant's prayer for reinstatement as a Garud and the same is dismissed. However, keeping in view that AFO 22/2016 could have been put into effect only prospectively, we find that the applicant was*

*entitled to Special Forces Allowance from 25.06.2007 to 26.01.2010, during which period he was in A4G1 or A4G4 (Temp.) medical category. Hence, he should be paid Special Forces allowance for that period. Any amount withdrawn or recovered from him for this period be returned to him. Action be taken accordingly within four months, failing which, the amount shall carry 6% interest.*

22. *No order as to costs."*

3. In terms of the aforesaid Order, keeping in view that AFO 22/2016 could have been put into effect only prospectively, the applicant was found entitled to Special Forces Allowance from 25.06.2007 to 26.01.2010, during which period he was in A4G1 or A4G4 (Temp.) medical category. Hence, it was directed that he should be paid Special Forces Allowance for that period only w.e.f. 25.06.2007 to 26.01.2010.

4. By way of the present RA learned counsel for the applicant states that the applicant is entitled for SF allowance as per DACL/3/2005 till the AFO 22/2016 came into effect if the AFO 22/2016 is not to be applied retrospectively. It is contended that the OA was filed in the year 2015 for grant of SF Allowance, at that time the AFO 22/2016 was not in existence and the respondents be directed to repay any amount withdrawn or recovered from him for this period. The fact is that the applicant was paid SF Allowance from 15.04.2010 to 23.06.2012 and subsequently a recovery was raised.

The applicant is also seeking modification of the Order dated 20.01.2020 to the effect that any recovery made of SF Allowance paid during 15.04.2010 to 23.06.2012 be not recovered as the applicant is entitled for SF Allowance from 25.06.2007 till the date AFO 22/2016 came into effect. Hence, the present RA.

5. When the RA was listed for hearing on 13.02.2023, this Tribunal directed the respondents to file a short affidavit indicating therein as to whether recoveries have been made from those personnel who are under Low Medical Category (Permanent) prior to issue of AFO 22/2016. In compliance of the said directions, the respondents filed a short affidavit appended therewith a list of such low medical category (Permanent) personnel. It is stated in the affidavit that the recovery had been effected in few cases and action in respect of certain personnel is pending due to want of Personal Occurrence Report(POR) action from the relevant units and efforts are being made to carry out necessary POR action to facilitate the recovery effected of erroneously paid allowance. It was also revealed that there was mismatch in medical category of the individuals as projected in the list provided by the Air HQ dated 02.06.2017 and 05.06.2017. Accordingly, the purification of data is being taken place and the Air HQ letter dated 25.05.2023 also forwarded the list

of IAF(S) tradesmen who had been erroneously paid SF allowances despite having been in Low Medical Category. Therefore, it is apparent that the decision of the competent authority has been applied across the board and the applicant is not an exception.

6. It is further stated that the applicant himself filed an application for change of section on 02.08.2012 admitting that he is not fit to perform the trade duties of Garud and various physical test in Garud. Further, he also stated that he is not eligible to draw SF allowance and will not claim the same for the duration of attachment. Subsequently, the applicant started working in Chief Administrative Officer's Section with effect from 03.08.2012.

7. Vide another affidavit filed by the respondents pursuant to directions of this Tribunal dated 17.11.2023, the following facts have also been brought out on record:-

(a) That, for authorization of SF allowances in terms of then existing DACL, the application is required to be initiated by the air warrior who is performing and deployed for special force i.e., Garud duties. Accordingly, the Commanding Officer of air warrior will issue a certificate that the air warrior has been deployed on Special duties with effect from the date of posting

to the unit to authorize the SFA. Thereafter, on posting out of the individual the SFA allowances are ceased. Subsequently, if the individual gets again posted to Garud Unit, he has to again submit an application for grant for SF allowance wherein the Commanding Officer of that Unit will again raise a Certificate.

- (b) That, the applicant was enrolled in Indian Air Force on 27 Sep 2005 and was initially posted to 605 GF i.e. 25 Jun 2007. However, he did not submit any application for grant of allowances on being posted to Garud Flight as he had become low medical category since the time of reporting to unit. He was also recommended for change of trade by the medical authorities. Subsequently, individual had put up an application for review medical board and withhold of change of trade as individual was not willing to change the trade.
- (c) The applicant took up the case for grant of SF allowance. He was authorized SFA and certificate of deployment on special duties was issued from date of Posting (i.e. 25 Jun 2007) in accordance to Appendix 'A' to DACL/03/2005 through a Statement of Case (SOC) since the case became time barred.

- (d) Thereafter, the applicant was posted out from 605 GF and SFA and other allowances were ceased w.e.f the date of posting out. On being posted to new unit (607 GF, AF), the applicant had to initiate an application for authorization of SFA. However, the applicant submitted an application dated 02 Aug 2012 stating that I am not fit to perform the trade duties and various physical test in Garud. Further, he also stated that I am not eligible to draw SF allowance and will not claim the same for the duration of attachment to other section. Accordingly, the applicant was removed from Garud unit and sent for administrative duties.
- (e) Subsequently applicant submitted another application dated 02 Nov 2012 for authorisation of SFA. However, the application was not approved wherein the Commanding Officer of Garud Unit appended his remark as follows:

*'As per revised training policy 2011 of Garud trade, medical standard should be A4G1. Presently, applicant not deployed in SF duties. As per his General Application dated 02 Aug 12, he clearly stated that "I will not be eligible to draw SF allowance and I will not claim the same for the duration of attachment to other section any time now or later till the time deployed on SF duty". Air warrior is attached to C adm O section on 03 Aug 2012 and presently working in IT section, where he is not performing any SF duties. Hence not approved.'*

- (f) That, the certificate as per appendix 'A' of the DAFL was not raised by the Commanding Officer as the applicant was never employed on Special Force duties at the unit, whereas the certificate to be

raised by the Commanding Officer warranted him to select one of the two options, which is either deployed/withdrawn from Special Force duties. Both the options were not applicable in this case, as the applicant was never engaged on Special Force duties from the date of his posting and neither was eligible for deployment on Special Force duties considering his Permanent Low Medical Category.”

and hence the RA deserves to be dismissed.

#### ANALYSIS

8. We have heard the learned counsel for both the parties and perused the pleadings available on record.

9. The OA No.421/2015 decided vide Order of the Principal Bench, New Delhi dated 20.01.2020 had allowed the payment of SF allowance to the applicant w.e.f. 25.06.2007 to 26.01.2010 as he was placed in low medical category (temporary) only during that period and was not in Low Medical Category (Permanent) during that period. The applicant was placed in LMC (P) w.e.f. 27.01.2010. The plea in the present review of the Order dated 20.01.2020 is that the applicant be paid SF allowance till coming into effect of AFO 22/2016 which came into force on 10.08.2016 and the applicant prior to coming into effect of AFO 22/2016 was governed by DACL/3/2005 which did not bar the applicant from getting SF Allowance on account of his LMC.

10. It is also a fact that the applicant was paid Special Force Allowance from 15.04.2010 to 23.06.2012. However, a recovery was effected by the respondents for the said period.

11. There is no doubt that the payment of SF allowance to the applicant during the period under consideration was guided by the DACL/3/2005 and not by AFO 22/2016 which came into being on 10.08.2016. DACL/3/2005 also does not specify anything about payment/non-payment of SF Allowance to the Garud personnel who are in low medical category (Temporary or Permanent). It has only now been clarified by AFO 22/2016 that SF allowance cannot be given to any Garud personnel who are in low medical category. It is also important to note that the applicant was placed in low medical category A4G4 (Prmt.) for the disease 'Schizophrenia' w.e.f. 27.01.2010. It is also important to note that the applicant being in low medical category had put up an application dated 02.08.2012 (Placed as R-3 in the counter affidavit) to the Commanding Officer of the Garud Flight under whom he was working to post him in any administrative post as he was not in a position to undertake any Garud duties due to his illness.

The details of the said application are as follows:-

Annexure 28  
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GLOBAL APPLICATION

No. 905726-R Rank CPL Name K.K. CHAURASIA Trade IAF 15002 for 607 GIRD P11

007 Unit  
010 27 Aug  
010 27 Aug

02 Aug 12

Commanding Officer  
007 GIRD  
IAF 15002

CHANGE OF SECTION

I have the honour to request that I am on the posted strength of 607 GIRD P11 w.e.f. 25 JUN 12. Further I state that from psychiatric side my endorsed medical category is (12) with employability service restrictions. Therefore I am not fit to perform trade duty and physical test in ground flight. Further I state that your favourable decision will act as stress buster. I am also made aware that by requesting for a change of section (duty) I will not be eligible to draw SF allowance and I will not claim the same for the duration of attachment to other section any time now or later. I will be the time as deployed on SF duty. Hence you are requested to put me on other duty as attached to other section.

Yours faithfully,

K.K. Chauhan

Remarks by Adjutant

forwarded.

Date 02 Aug 12

Remarks by Commanding Officer

Air warrior had requested interview with Sbn dtd on 01 Aug 12 and the interview was held on 02 Aug 12. On instructions of Sbn Cdr after interview the request for change of section for wanting duty of Aug 12 under C Adm O is recommended. Submitted for approval.

Remarks by Station Commander

Cpl Chauhasia to be attached to

Adm D Section Appd / Not Appd

Date 03 Aug 12

C.T.C

2

(D V Jani)  
Group Captain

(S. S. Singh)  
(PK Singh)  
010 31 JWO  
03 Aug 12  
607 GIRD P11  
Submitted  
(S. S. Singh)  
(V. S. Kumar)  
010 31 JWO  
03 Aug 12  
607 GIRD P11

12. From the above, it is very clear that due to his low medical category, the applicant was unwilling to perform his trade duty (Garud Duty) and had specifically requested for change of his section to some administrative job. The same application was recommended and forwarded by his Adjutant (JWO P.K. Singh) and was approved by Group Captain D.V. Wani (Station Commander) on 03.08.2012 attaching him to the C Adm O Section. It is, therefore, inferred that the applicant was unwilling to work in his primary professional duty (Garud Duty) due to his medical condition and now he cannot claim the SF Allowance w.e.f. 03.08.2012 to 10.08.2016 as he was not willing to perform the Garud duties w.e.f. 03.08.2012.

13. In so far as the issue of furnishing of certificate as per Appendix 'A' to DACL/03/2005 is concerned, the DACL mandates it as an action to be undertaken by the Commanding Officer of the unit and does not mandate that the applicant had to initiate it to be eligible to get SF Allowance. The said certificate at Appendix 'A' to DACL/3/2005 reads as under:

“Certificate

Certified that Service No.....Rank.....Name....  
Branch/Trade..... Has been deployed on/withdrawn from  
Special duties with effect from (date).....

Signature of Commanding Officer/PM(Air)”

14. A bare reading of the certificate format brings out that the applicant is not required to initiate the said certificate and it was the duty of the Commanding Officer to initiate the said certificate. Moreover, there is nothing mentioned that Garud personnel in Low Medical category (Temp/Prmt) will not be entitled to SF Allowance in the said DACL/3/2005. It is also important to note that for Garud personnel posted to Administrative duties are also allowed to draw the SF allowance as per the said DACL/3/2005.

15. In view of the above, the RA No.11/2020 is partly allowed to the extent that the applicant be paid the Special Force Allowance up to 03.08.2012 only and not till the time of coming into force of AFO 22/2016 i.e. on 10.08.2016. It is also further directed that any money which was recovered prior to said period be refunded back to the applicant.

16. The dues entitled to the applicant be paid within a period of four months failing which interest @6% per annum shall be applicable till actual payment of the dues.

17. Pending MA(s), if any, stands disposed off. No order as to costs.

Pronounced in the open court on <sup>13</sup> day of May, 2025.

[Rear Admiral <sup>v</sup>Dhiren/Vig]  
Member(A)

[Justice Rajendra Menon]  
Chairperson