



**ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI**

**Original Application No. 8 of 2021**

**Monday, this the 25<sup>th</sup> day of July, 2022**

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**

**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

No. 15417483Y Hav (ORA) Raktade Sandesh Ganpatrao  
R/o Lane No. 5, Shantinagar, Jagtap Chowk,  
Wanawadi, Pune – 411040

**.... Applicant**

Ld. Counsel for the Applicant : **Shri Jyotishwar Bhosale**, Advocate

**Versus**

1. The Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. AMC Records, Officer-in-Charge, Army Medical Corps NE Group RO AMC Lucknow – 226002.
3. Director General of Medical Services (Army), Adjutant General Branch, Dte Gen of Medical Services (Army), MPRSO (O) 'L' Block, New Delhi – 110001.
4. Brig I/C OC Troops, command hospital (SC), Wanawadi, Pune, Maharashtra-411040.

**... Respondents**

Ld. Counsel for the Respondents : **Shri A.J. Mishra**,  
Govt Standing Counsel

**ORDER (Oral)**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-

*"i. That this petition be admitted.*

*ii. That the impugned order dated 26 February 2020 passed by competent authority be quashed and set aside.*

*iii. That the application of applicant for premature retirement be granted and respondent be directed to release applicant on priority basis.*

*iv. That the applicant be given all the lawful benefits as may be applicable as per set down rules of Armed Forces.*

*v. Cost of this petition be provided for.*

*vi. To pass such other and further orders as may be deemed necessary on the facts and in the circumstances of the case."*

2. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian Army on 17.04.2003. The applicant while posted with 151 Base Hospital was detected with 'Low Back Ache' and 'Primary hypertension'. His medical board held on 14.12.2018 and re-categorisation medical board held on 27.01.2020 and he was downgraded to low medical category. The applicant applied for premature retirement on compassionate grounds on 05.01.2019 mentioning therein his disabilities and also that his parents are suffering from ailments and there is no one to look after them but his request for premature retirement was rejected by the respondents vide order dated 15.05.2019. Being aggrieved, the applicant has filed the present Original Application for grant of premature retirement.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Indian Army on 17.04.2003. The applicant while posted with 151 Base Hospital was detected with 'Low Back Ache' and 'Primary hypertension'. His medical board held on 14.12.2018 and he was downgraded to low medical category and his re-categorisation medical board held on 27.01.2020 and applicant was placed in low medical



category P2 (Permanent). The applicant requested for premature retirement due to his medical condition and family problems which was rejected by the respondents. Thereafter, applicant applied for premature retirement on compassionate grounds on 05.01.2019 mentioning therein his disabilities and also his parents medical problems requesting that there is no one to look after them but his request for premature retirement was rejected by the respondents vide order dated 15.05.2019.

4. Learned counsel for the applicant also submitted that applicant has completed more than mandatory service of 15 years and he is in low medical category having family problems due to ill health of his parents, no bar should be applicable for premature retirement in the present circumstances and he should be prematurely discharged from service granting pensionary benefits.

5. On the other hand, learned counsel for the respondents submitted that at present applicant is posed with Command Hospital, Pune w.e.f. 27.08.2019. He was promoted to the rank of Naik on 03.11.2009 and Havildar on 10.11.2012 and has been granted benefit of MACP Nb Sub on 10.11.2020. The applicant's present medical category is P2 (Permanent) due to disabilities "Primary Hypertension" and "Low back Ache". He will be completing his normal service limit in present rank of Havildar on 30.04.2027. The applicant submitted an application dated 05.01.2019 for premature retirement from service on compassionate grounds of looking after his old aged parents, dispute of ancestral property and his own medical condition. His application was processed and was examined in detail by AMC Records but the competent

authority has not agreed to sanction premature retirement as per the merit of the case based on strength in his trade/Corps.

6. Learned counsel for the respondents further submitted that as per para 163 (a) of Regulations for the Army, 1987 retirement age of Havildar is 24 years service or 49 years of age whichever is earlier. Besides this, there is restriction in granting premature retirement till 31.03.2023 due to COVID-19 pandemic and non recruitment in Indian Army. He also submitted that para 438 of AMC ROI deals with disposal of permanent low medical category personnel.

7. Learned counsel for the respondents further submitted that premature retirement from service at own request is being dealt with as per guidelines issued by IHQ of MoD (Army) and only genuine cases are recommended after verifying the merit of the case and Corps manpower state. He also submitted that applicant signed a contract for 20 years of colour service and 03 years of reserve liabilities as per terms and engagement contained in the Enrolment Form signed by him at the time of enrolment in the Army. The respondents' refusal for grant of premature retirement from service is wholly just, proper and in accordance with law and there is no illegality in the said order. Hence, applicant is not entitled for grant of premature retirement from service. He pleaded for dismissal of O.A.

8. We have heard learned counsel for the parties and perused the records.

9. We have given our thoughtful consideration to the facts and rival contentions. It is not disputed that applicant is in low medical category having disabilities "Primary Hypertension" and "Low back Ace" and his



parents are also suffering from some ailments. The applicant submitted an application for premature discharge from service due to his domestic problems and also on medical grounds of his own and the parents. The authorities could not consider his case in its proper perspective and rejected the same on the grounds of restrictions imposed by IHQ of MoD (Army) due to deficiency in applicant's trade and COVID-19 pandemic.

10. It is true that at the time of enrolment certain terms and conditions are laid down in the offer of appointment and an individual has to accept the same in order to join service. No doubt, it was a contract at that point of time. But once an individual joins service, he is governed by service rules and regulations. In the relevant service rules, there is provision for voluntary retirement or premature discharge on stated grounds. Therefore, the applicant cannot be blamed if he has filed such an application in view of his disabilities and family problems due to ill health of his parents.

11. We find that respondents have taken a ground of deficiency of personnel in applicant's trade, we are of the view that his early discharge will not prejudice the respondents in any manner. Considering all aspects of the matter, improved Covid Pandemic situation and recommencement of recruitment in the Army, we are of the view that applicant's case needs re-consideration by the competent authority for grant of premature discharge on compassionate grounds.

12. Accordingly, Original Application is disposed off finally with direction to the respondents to reconsider the prayer of the applicant for premature discharge from service on compassionate grounds, keeping in view the

overall improved situation post Covid-19 Pandemic and also commencement of recruitment in the Indian Army, within a period of four months from the date of communication of this order and communicate the decision to the applicant accordingly.

13. No order as to costs.

14. Pending Misc. Applications, if any, shall stand disposed off.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated : 25 July, 2022  
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