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FORM NO. – 21

{SEE RULE 102 (1)}

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORIGINAL APPLICATION : – O. A. NO. - 21/2013

ON THIS 29TH DAY OF JULY, 2015

CORAM : **HON'BLE JUSTICE MR. DEVI PRASAD SINGH, MEMBER (JUDICIAL)**

HON'BLE LT GEN GAUTAM MOORTHY, MEMBER (ADMINISTRATIVE)

IN THE MATTER OF

RAGHUNATH ROUT, aged about 48 years, son of LATE BANCHHANIDHI ROUT, EX. SUB UNIT – 736, OF VILLAGE – NANDAPUR, P.O.-ADHUA, P.S.-BASUDEVPUR, DISTRICT – BHADRAK, ORISSA, PIN – 756100.

..... PETITIONER / APPLICANT

VERSUS

1. UNION OF INDIA, REPRESENTED THROUGH THE SECRETARY, MINISTRY OF DEFENCE, NEW DELHI-110 011.
2. PCDA (PENSION) OF DEFENCE ACCOUNT PENSION, ALLAHABAD, UTTAR PRADESH, PIN-211 014.
3. MED BRANCH, 12 CORPS, C/O 56 APO, JODHPUR, RAJASTHAN.
4. COMMANDING OFFICER, UNIT-736, C/O 56 APO, JODHPUR, RAJASTHAN, PIN-342 006

.....RESPONDENTS

For the Petitioner : **Shri S.K. Chaudhury, Ld. Advocate**

For the Respondents : **Shri Anup Kumar Biswas, Ld. Advocate**

ORDER

PER HON'BLE MR. JUSTICE DEVI PRASAD SINGH, MEMBER (JUDICIAL).

1. Instant application Under Section 14 of the Armed Forces Tribunal Act, 2007 (in short 'Act') has been preferred being aggrieved with invalidation to set aside the Discharge Certificate for invaliding and boarding out of the petitioner by a medical board and allowing him to join service. The relevant facts given rise to the present dispute are discussed here-in-under.

2. The applicant was enrolled in the Indian Army on 24.08.1985. After completion of more than 27 years of service, he was invalidated and medically boarded out from the Army Service with effect from 17.11.2012. The order was served upon the applicant on 06.03.2013 i.e., after a lapse of more than three (03) months.

3. The order of the Invaliding Medical Board dt. 14.10.2012, has conveyed to the applicant in terms of Rule 13 (iii) of the Army Rule for invalidation which has been done on the ground of diseases namely, "**PRIMARY HYPERTENSION, "DYSLIPIMIDEIMIA" AND "ALCOHOL DEPENDENCE SYNDROME"**."

4. The brief fact relating to disease and medical reports have been provided in Para 4 (vi) of the Counter Affidavit of the Respondents. For convenience, it is reproduced as under : -

“(vi) While in service the petitioner was placed in low medical category

the details of which are as under :-

Ser No.	<u>Period</u>	<u>SHAPE in Medical Category</u>	<u>Diagnosis</u>	<u>Attributability Factor</u>
(a)	09 Jan 10 26 Jan 10	S1H1A1P3(T-24)E1	PRIMARY HYPERTENSION DYSLIPIDEIMIA	Neither Attributable to nor Aggravated by Military Service (NANA).
(b)	26 Jan 10 26 Jan 12	S1H1A1P2(P)E1	PRIMARY HYPERTENSION DYSLIPIDEIMIA	NANA
(c)	13 Jul 10 27 Dec 10	S3(T24)H1A1P1E1	ALCOHOL DEPENDENCE SYNDROME	NANA
(d)	27 Dec 10 12 Jun 11	S3(T-24)H1A1P1E1	ALCOHOL DEPENDENCE SYNDROME	NANA
(e)	12 Jun 11 27 Nov 11	S2(T-24)H1A1P1E1	ALCOHOL DEPENDENCE SYNDROME	NANA
(f)	27 Nov 11 12 May 12	S2(T-24)H1A1P1E1	ALCOHOL DEPENDENCE SYNDROME	NANA
(g)	12 May 12	S1	-	On review upgraded medical category S1
(h)	26 Jan 12 26 Jun 14	S1H1A1P2(P)E1	PRIMARY HYPERTENSION DYSLIPIDEIMIA	NANA

5. From the perusal of sequence of events given in the Counter Affidavit filed by the Respondents, there appears to be no room of doubt that originally, the applicant was suffering from Primary Hypertension and Dyslipideimia without Alcohol Dependence Syndrome and later on he seems to have started to consume alcohol. Again in January 2012, he was found to be suffering only from Primary Hypertension and Dyslipideimia; which means, originally the applicant was suffering from Hypertension and Dyslipideimia and later on he suffered from Alcoholic Dependence Syndrome. The opinion of the Specialist dated 19.10.2012 indicates that applicant was suffering from Primary Hypertension and Dyslipidemia and not Alcohol Dependence Syndrome. This indicates that the applicant have suffered with two diseases only as diagnosed by the Specialist, but he was held to be released from the Army Service on Alcoholic Dependence Syndrome also in view of the opinion of Medical Board. For convenience, the opinion of the Specialist dated 19.10.2012, as filed with the Counter Affidavit is reproduced as under :-

Appendix "G"
(Ref to Para 28 of Army Order 9/2011/DGMS)

OPINION OF SPECIALIST

PART – I

PATIENT'S PARTICULARS**Pers No.** JC-265215W

Rank : SUB

Name : Raghunath Rout

Age : 48 yrs.

Unit : 736

Fmn : 12 Corps

Previous Classification details (Summary by Specialist, who will obtain all previous medical classification from the patient's Health Record Card) P 2 (P) for Primary HTN & Dyslipidemia – Being considered for IMB for ADS.

PART – II**CLINICAL ASSESSMENT**

(All relevant data required to arrive the diagnosis and assessment of progress on the physical state of the patient to be entered).

4. History

- (a) Location on Onset : Peace / Field / High Altitude / CI Ops.*
- (b) Date & time of onset : Jan 2010, Jodhpur. Detected during evaluation for gastroenteritis.*

Non – smoker.

No fami H/O HTN/IHD

- (c) Relevant history :*

5. *Physical examination findings : Mesomorphic*

No pallor ledema / dysliprdenic markers.

BP-130/90

Systemic Exam – NAD

*6. Investigation reports. Hb-15.8 g/dl. Urine RE/ME-NAD
Bld Sug F/PP 69/98 mg/dl – Urea/creat – 24/0.8 mgt
Schol/TG/HDL/LDL-176/188/36/140 mg/dl. ECG-WNL
CXR-NAD*

*7. Diagnosis – Primary – HTN : for RMB
Dyslipidimia*

PART – III

TREATMENT UNDERTAKEN / ADVISED

(The Summary of medical treat or Surgery procedures performed and medical advice given)

T. Atenol – 50 mg OD

PART – IV

RECOMMENDATIONS

1. *Medical Classification recommended*
 - (a) *Medical Classification : Fit to be released in LMC P2 (P) for Both disabilities.*
 - (b) *Disability profile :*
2. *Medical recommendation & employability restrictions (impacting, functional status of the indl). If any with justification :*
 - (1) *Low salt, low saturated fat diet & daily exercises.*
 - (2) *T. Atenol 50 mg OD*
 - (2) *T. Atorvers – 10 mg HS*
 - (3) *Monthly review by AMA.*

Place :

Date : 19/10/2012

*Sd/-x x x x x x x x x x
(R Vijay Kumar)
Lt Col
Cl. Specialist (Med)*

6. The Disease Dyslipimideimia has been defined in a Medical Dictionary

“Dorland Illustrated Medical Dictionary, 32nd Edition (Page 578) is as under : -

dyslipidemia *abnormality in, or abnormal amounts of, lipids and lipoproteins in the blood; see also hyperlipidemia and hypolipemia.*

mixed d. *mixed hyperlipemia.*

dyslipidosis *a disturbance of fat metabolism; it may be either localized or systemic.*

dyslipoidosis *dyslipidosis.*

dyslipoproteinemia *the presence of abnormal concentrations of lipoproteins, or of abnormal lipoproteins, in the blood. See also hyperlipoproteinemia and hypolipoproteinemia.*

7. “According to the Dorland’s Illustrated Medical Dictionary 32nd Edition (Page-896) - the meaning of **HYPERTENSION** is : -

High arterial blood pressure; various criteria for its threshold have been suggested, ranging from 140 mm Hg systolic and 90 mm Hg Diastolic to as high as 200 mm Hg Systolic and 110 mm Hg Diastolic. Hypertension may have no known cause (essential or idiopathic b.) or be associated with other primary diseases (secondary h.).

Accelerated h. *progressive hypertension marked by the fundoscopic vascular changes of malignant hypertension but without papilledema.*

Adrenal h. *hypertension caused by an adrenal tumor that secretes mineralocorticoids, such as in hyperaldosteronism; in many cases it may be associated with excessive production of other adrenocortical hormones normally made in minute amounts.*

Benign intracranial h. *pseudotumor cerebri.*

Chronic thromboembolic pulmonary h. *persistent pulmonary hypertension due to obstruction of a major pulmonary artery by an unresolved embolus.*

Endocrine h. *secondary hypertension caused by an endocrine disorder, such as adrenal hypertension.*

Essential h. *hypertension occurring without discoverable organic cause; called also primary h. and idiopathic h.*

gestational h. *pregnancy-induced h.*

Golblatt h. *hypertension experimentally induced with clamping that causes a Golblatt kidney; called also Goldblatt phenomenon.*

Idiopathic h. *essential h.*

Idiopathic intracranial h. *pseudotumor cerebri.*

Intracranial h. increased intracranial pressure; if symmetrically distributed it may have few neurologic symptoms (see pseudotumor cerebri), but if it asymmetrical, as with hydrocephalus, neurologic symptoms are often severe.

Labile h. prehypertension.

Low-renin h. essential hypertension associated with low levels of plasma rennin concentration or low rennin activity.

Malignant h. a severe hypertension state with poor prognosis; it is characterized by papilledema of the ocular fundus with vascular exudative and hemorrhagic lesions, medial thickening of small arteries and arterioles, and left ventricular hypertrophy. Diastolic pressures as high as 130 mm Hg or more are commonly present.

Masked h. hypertension that is detectable on home monitoring devices but disappears when the patient is in a clinical's office. Cf. white coat.

Ocular h. persistently elevated intraocular pressure in the absence of any other signs of glaucoma; it may or may not progress to open-angle glaucoma.

Office h. white coat h.

Persistent pulmonary h. of the newborn a condition to newborns in which blood pressure continues to flow through the foramen ovale and an patent ductus arteriosus, bypassing the lungs and resulting in hypoxemia. Called also persistent fetal circulation.

Portal h. abnormally increased blood pressure in the portal venous system, a frequent complication of cirrhosis.

Portopulmonary h. pulmonary hypertension in combination with portal hypertension.

Pregnancy, pregnancy-induced h. the spectrum of preeclampsia and eclampsia.

Primary h. essential h.

Pulmonary h., pulmonary arterial h. increased pressure (above 30 mm Hg systolic and 12 mm Hg diastolic) within the pulmonary arterial circulation.

Renal h. hypertension due to or associated with renal diseases with a factor of parenchymal ischemia.

Renovascular h. hypertension due to or associated with a variety of primary diseases, such as renal disorders, disorders of the central nervous system, endocrine diseases, and vascular diseases.

Secondary h. hypertension due to or associated with a variety of primary diseases, such as renal disorders, disorders of the central nervous system, endocrine diseases, and vascular diseases.

Symptomatic h. hypertension accompanied by symptoms such as dizziness or headache.

Systemic venous h. *elevation of systemic venous pressure, usually detected by inspection of the jugular veins.*

Vascular h. *hypertension.*

White coat h. *hypertension detected when monitored in a clinician's office but not in other settings such as the patient's home; cf. masked h. Called also office h.*

7. As per Annexure-III to Appendix-II of the Pension Regulations, the classification of diseases, includes Hypertension, hence, it may be the ground to invalidate an Army personal. Accordingly, so far applicant's invalidation is concerned, the applicant may be released from Army because of disability of Hypertensions alone from which he was suffering.

8. The disease for Hypertension is based on variety of factors, which includes, high diastolic pressure, medial thickening of small arteries and arterioles, and left ventricular hypertrophy, increased systolic and diastolic pressure to the renal disorders, varies pressure etc., The disease of diastolic pressure is caused because of abnormal amounts of lipids and litotes in the blood.

9. The applicant has been discharged from the Army Service on three grounds i.e., Primary Hypertension, Dyslipimideimia as well as Alcohol Dependence Syndrome. It is not that the applicant has been discharged only because of Alcohol Dependence Syndrome, which may be because of own conduct of the applicant. In case a person is discharged from Army on more than one ground and out of various grounds some are attributable to and aggravated by the Army Service, person may be granted Disability Pension.

There may be case where a person becomes alcoholic because of Hypertension on variety of factors, which may include rigorous working and hard living condition of a Army person. Such disease may also occur on ground of climatic and hazardous condition of living of an army person in case posted at climately hazardous place.

10. Medical Board has not invalidated only because of Alcoholic Dependence Syndrome but it attributed to three diseases or circumstances or symptoms (supra), which may be aggravated by Army Service, then a person is entitled for Disability Pension. Interference may be drawn from the opinion of the Specialist (Supra) attached with the Counter Affidavit dated 09.10.2012.

11. The opinion of the Specialist (Supra) dt. 09.10.2012, shows only the disease of Hypertension and Dyslipideimia. But latter opinion also shows the Alcohol Dependence Syndrome. However, the specialist opined that the applicant is fit to be released in Low Medical Category (P) (2) (P). It seems the Medical Specialist had held that the applicant should be invalidated from Army Service because of those two diseases. But when the matter was placed before the Medical Board, Alcohol Dependence Syndrome was also taken into account.

12. Needless to mention that service condition of the Army person though very good, but during the span of services, if a person is posted at different places where climatic condition is not suitable or at hazardous places make life

very hard and a person of weak willpower may suffer with Hypertension or alike diseases along with other physical ailments, though he or she was not suffering at the time of entry into the Army service.

13. In all above, no report has been brought before the Tribunal and the material on record which may indicate that the person was suffering from Hypertension and Dyslipideimia at the entry level or immediately after entering the Army service. However, the petitioner has claimed the following relief :-

- (a) To admit the case and call for the entire records of the applicant.
- (b) Respondents be directed to produce after hearing the parties this Hon'ble Tribunal be pleased to set aside impugned order of Discharge Certificate invalidate petitioner in service. And this Hon'ble Tribunal be pleased to direct the respondent to allow the applicant to join in this service.

14. However, Shri SK Chaudhury, Ld. Counsel for the applicant argued for Disability Pension but from the relief claimed (Supra), it appears that no prayer has been made for Disability Pension and also there appears to be no pleading. Hence it may not be granted.

15. As we have already held that for two diseases he may not be released from Army but seems to have been further compounded by Alcohol Dependence Syndrome.

16. Hence, the application lacks merit.

17. Rejected.

(LT GEN GAUTAM MOORTHY)
MEMBER (ADMINISTRATIVE)

(JUSTICE DEVI PRASAD SINGH)
MEMBER (JUDICIAL)