

Form No. 4
{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1 (Sl. No. 2)

Ex A No 255 of 2022 Inre : O.A. No 517 of 2017

Ex. Sep Rahul Singh

Applicant

By Legal Practitioner for the Applicant : Shri Vinay Pandey, Advocate

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents : Shri Ram Saran Awasthi, Advocate

Notes of the Registry	Orders of the Tribunal
	<p data-bbox="380 1064 1149 1190"><u>03.05.2024</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Lt Gen Anil Puri, Member (A)</u></p> <p data-bbox="380 1252 1482 1376">1. Reply to the objection on compliance report, filed by the applicant is taken on record.</p> <p data-bbox="380 1421 1482 2061">2. The facts in a nutshell are that O.A. No 517 of 2017 was filed by the applicant before this Tribunal with the prayer to quash his discharge order and to issue directions to respondents to re-enrol him in army. O.A. was disposed of finally vide this Tribunal order dated 19.01.2022 and respondents were directed to carryout Re-Survey Medical Board of the applicant within two months. It was further directed that if the applicant is found medically fit, he shall be considered for enrolment in the army afresh as per rules.</p> <p data-bbox="380 2123 1482 2341">3. Learned counsel for the respondents has submitted that in compliance of order dated 19.01.2022, Re-assessment Medical Board (RSMB) of the applicant was conducted at Command</p>

Hospital, Lucknow and compliance report has been filed. As per remarks endorsed in RSMB, presently applicant has no sign of mental illness but it has been mentioned that recurrent depressive episodes may have a relapse/remission. The medical board further specified that medical treatment may be required for remission as condition of the applicant is in latent phase and relapse is known to occur. Additionally, a recruit is akin to a probationer and hence, prima facie the respondents as an employer have every right to discharge a recruit who is not meeting the medical requirement of military service. Learned counsel for the respondents prayed that as per remarks of RSMB illness can again take place hence, applicant cannot be re-enrolled in the Army.

5. Learned counsel for the applicant has filed objection on compliance report stating that present evaluation of the applicant was observed by Classified Specialist – Psychiatry as ***“Present Evaluation: Ward Observation and serial MSE have not revealed any syndrome psychopathology at present. BDI-0/63 (No Clinical Depression), Sleep, appetite, behaviour and interaction is normal. The clinical condition of the individual is improved and at present he has no sign of mental illness. Seems to be in clinical remission.”***

6. Learned counsel for the applicant prayed that as per RSMB report, the applicant is physically and mentally fit and therefore, respondents be directed to re-enrol him in the Army.

7. Heard Shri Vinay Pandey, learned counsel for the applicant and Shri Ram Saran Awasthi, Learned counsel for the respondents on Execution Application and perused the documents available on record.

8. The question before us for consideration is “whether the applicant who as per opinion of RSMB has no sign of mental illness at present but recurrent depressive episodes may have a relapse/remission in future” can be re-enrolled in Army service or not?

9. In the instant case, it is not disputed that the applicant was placed in low medical category S-5 and he was invalided out from service within less than 02 years in terms of provisions of AO 3/2001 and DGAFMS Memorandum 171 of 2002.

10. In compliance of order of this Tribunal, RSMB of the applicant was conducted. The RSMB in his opinion has held that presently applicant has no sign of mental illness but in succeeding lines they have also mentioned that **“Medical treatment may be required for remission as his condition is in latent phase and relapse is known to occur.”** After conducting RSMB, case of the applicant was forwarded to competent authority for considering re-enrolment

of the applicant. After examining his case for re-enrolment in terms of Rule on the subject, case of the applicant was rejected. Further Para 9 (a) of **Manual of Medical Examination and Medical Standards for entries into Army, Training Academies and Military Schools** issued vide Directorate General of Medical Services (Army), Integrated Headquarters of Ministry of Defence letter No 76054/Policy/DGMS-5A dated 16 Jun 2019 stipulates that **“a cadet giving history of Psychiatric disorders (Psychosis, Neurosis, emotional instability and other conditions), family history of such disorders or taking medication in the past from the same should be rejected.”**

11. Argument advanced by learned counsel for the applicant that applicant is medically fit to discharge his duty and respondents be directed to re-enroll him in service seems to be misconceived. Indian Army is disciplined and a fit organization, which plays the key role to defend our country from external aggression and internal threats whenever called for such duties. To achieve the aim, it is necessary that its soldiers are properly trained to become physically fit and mentally robust, so that he can take any task during operations against the enemy. In order to maintain the operational capabilities/effectiveness of the Army, a substantive number of medically fit personnel are required. Physical fitness is necessary to enable a person to discharge his duty. Medical authorities have

found him not worth for further military service due to his psychiatric illness and response to treatment. His disability was likely to deteriorate if retained further in Army. It is for the respondents to assess who is fit and who is unfit for serving in the army keeping in view the opinion of the medical board. Members of the Armed Forces must be physically and mentally fit to meet out the challenges which army is likely to face during the course of discharge of duty. Any infirmity on any ground may be fatal to the collective discharge of duties by Armed Forces.

12. On due consideration of facts and circumstances of the case, we find that denial of re-enrolment does not suffer from illegality. Consequently, the application being devoid of merit is liable to be dismissed. Resultantly, Execution Application. is **dismissed**.

13. No order as to costs.

14. Miscellaneous applications pending, if any, shall stand disposed off.

(Lt Gen Anil Puri)
Member (A)

(Justice Anil Kumar)
Member (J)

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