

Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 487 of 2024

Thursday, this the 17th day of April, 2025

**“Hon’ble Mr. Justice Anil Kumar, Member (J)
Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”**

No. 646378-R Ex. JWO Triveni Narayan Pandey, S/o Shri Dharmraj Pandey, H. No. C, 33/136, A Chandua Chhittupur, Varanasi, Varanasi Cantt., (U.P.)-221002.

..... Applicant

Ld. Counsel for the : **Shri Girish Chandra Tripathi**, Advocate
Applicant

Versus

1. The Union of India, through the Secretary, Ministry of Defence (Air Force), New Delhi-110011.
2. The Chief of Air Staff, Air Headquarters, Vayu Bhawan, New Delhi-110011.
3. The Director, Dte of Air Veteran, Subroto Park, New Delhi-110010.
4. The PCDA (P), Draupadighat, Prayagraj (U.P.)-14.

.....Respondents

Ld. Counsel for the : **Shri G.S. Sikarwar**, Advocate
Respondents. Central Govt. Standing Counsel

ORDER

“Per Hon’ble Mr. Justice Anil Kumar, Member (J)”

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

- A. *To quash set aside the order passed by respondents vide Air HQ letter Air RO/2703/646378/05/07/P&W (DP/RMB) dated 20.09.2006 and Air HQ/99798/1/646378/DP/(RMB) dated 22.12.2020 rejection claim of disability pension.*
- B. *To issue/pass an order or directions to the respondents to issue rounding off disability pension @30% to 50% of the applicant with effect from the next date of discharge i.e. 01.06.2007 along with @12% interest on arrear in light of Hon’bnle Apex Court and Tribunal Judgments.*
- C. *To issue/pass any other order or direction as this Hon’ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.*
- D. *To allow this original application with costs.*

2. Briefly stated, the applicant was enrolled in the Indian Air Force on 22.05.1975 and discharged on 31.05.2007 in Low Medical Category on fulfilling the conditions of engagement after rendering 32 years and 10 days of regular service. The applicant is in receipt of Service Pension. Before discharge from service, the Release Medical Board (RMB) held at 12 Wing, Air Force on 19.06.2006 assessed his disabilities (i) **‘PRIMARY**

HYPERTENSION I 10.0, Z 09.0' @30% and (ii) **'OBESITY E 66.9, Z 09.0' Nil, composite disabilities @30% for life** and opined the disabilities to be neither attributable to nor aggravated (NANA) by service. The applicant's claim for grant of disability element of disability pension was rejected vide letter dated 20.09.2006. The applicant preferred application dated 17.11.2020 under Right to Information Act which too was rejected vide letter dated 22.12.2020. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded that at the time of enrolment, the applicant was found mentally and physically fit for service in the Air Force and there is no note in the service documents that he was suffering from any disease at the time of enrolment in Air Force. The diseases of the applicant were contracted during the service, hence they are attributable to and aggravated by Air Force Service. Ld. Counsel for the applicant relied upon the law laid down by the Hon'ble Apex Court in the Case of ***Sukhwinder Singh Vs. Union of India*** (Civil Appeal no. 5605 of 2010, decided on 25.06.2014) and in the case of ***Dharamveer Singh Vs. Union of India*** (Civil Appeal No. 4949 of 2023, decided on 02.07.2013). He also relied upon the law laid down by the Hon'ble Apex Court in Civil Appeal Diary No. 50071 of 2024, ***Union of India & Others Vs. Ex. JWO Sita Ram***, decided

on 06.01.2025 by which the order dated 09.01.2023 passed by this Tribunal in Original Application No. 394 of 2023 was upheld. He also relied upon the order dated 14.08.2024 passed by this Tribunal in Original Application No. 1473 of 2023, **Ex. WO Badree Singh Chauhan Vs. Union of India & Others** and order dated 02.11.2023 passed by this Tribunal in Original Application No. 458 of 2023, **Ex. Nb. Sub. (TA) Vinod Kumar Vs. Union of India & others**. Ld. Counsel for the applicant also pleaded that various Benches of Armed Forces Tribunal have granted disability pension in similar cases, as such the applicant be granted disability element of disability pension and its rounding off to 50%.

4. On the other hand, Ld. Counsel for the respondents contended that composite disabilities of the applicant @30% for life have been regarded as NANA by the RMB, hence as per Regulation 153 of the Pension Regulations for the Indian Air Force, 1961 (Part-I) which provides that *“Unless otherwise specifically provided, disability pension may be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by Air Force service and is assessed at 20% or over”* the applicant is not entitled to disability element of disability pension. He further contended that the applicant was overweight, the record of applicant’s overweight since his enrolment have been mentioned in para Nos. 5 and 16 of the

Counter Affidavit. The weight record chart of the applicant submitted by the respondents in para 5 of the Counter Affidavit is as follows :-

Date	Type of Medi Exam	Actual Weight in Kgs	IBW	BMI	Advice
25.02.1975	Primary	60	-	-	-
29.04.1988	Annual	77	57	-	To reduce 10 Kg body weight by dietary control and physical exercise.
23.05.1994	Annual	82	-	-	To reduce 20 Kg of body weight by dietary control and physical exercise.
21.12.1999	Initial MB	86	58.5	-	Walk 3 km daily, reduce 28 Kg weight in 6 months.
14.06.2000	Recategorisation	85	58		Reduce by 25 kg
27.06.2001	Recategorisation	90	58.5	33	-
20.11.2002	Recategorisation	75	59	29.0	To reduce weight to 65 kg by diet control and physical exercises.
04.12.2003	Recategorisation	88	-	-	To reduce weight to 1 kg/month by diet control and physical exercises.
11.03.2004	Recategorization	86	-	-	Reduction of body weight 2-3 kg/months
19.05.2005	Recategorisation	90	-	-	-
19.06.2006	RMB	97	62	-	-

The applicant was advised time and again to reduce weight by dietary control and regular exercise but he failed to do so. The applicant was a drinker and tobacco and bhang chewer vide AFMSF-7A dated 07.02.1996. In the background of overweight/obese, alcohol consumption, tobacco and bhang chewing, the applicant was initially detected to have Obesity Grade-III and was placed in low medical classification BEE (Temp) (T-24) vide AFMSF-15 dated 21.12.1999 and the applicant was initially detected to have Primary Hypertension and was placed in low medical classification CEE (T-240 vide AFMSF-15 dated

14.06.2000. Thereafter, the applicant was reviewed periodically for both the disabilities and was placed in composite low medical classification CEE (Permanent) vide AFMSF-15 dated 23.11.2001. It is a documented fact that being over-weight is independent modifiable risk factor for contracting Primary Hypertension. Lack of exercise, sedentary lifestyle and dietary indiscretion contribute towards and individual being overweight. Ld. Counsel for the respondents contended that certain diseases like Primary Hypertension and Diabetes Mellitus are primarily due to interplay of metabolic and life style factors and manifest later in life irrespective of service conditions. Obesity or overweight is one of the important factors of the cause of these types of disabilities and failure in maintaining ideal weight, which can be managed by the applicant by regular exercise and restricting diet, is one of the important cause of these types of disabilities. Ld. Counsel for the respondents further submitted that the applicant was not overweight at the time of enrolment but he gradually gained weight and by the time of onset of Primary Hypertension the applicant was overweight by more than 47% from ideal weight. The mere fact that a diseases have manifested during military service does not per se establish attributability to or aggravation by military service. Ld. Counsel for the respondents further submitted that Armed Forces Tribunal, Regional Bench, Chennai Circuit Bench at Hybderabad vide order dated 09.11.2023 has dismissed the OA 166/201 filed by

792066 **Ex Sgt Rama Subba Reddy**, on merits in favour of UoI for disability ID "Hypertension @30% and NANA" in line with Hon'ble Supreme court order in Civil Appeal No. 4699/2022 **UoI & Others Vs. Cdr Birbal Singh (Retd)** dated 12.07.2022 denying disability element of disability pension to an officer who had suffered the disabilities due to life style disease which had no causal connection to the service. He further submitted that since the applicant is not entitled for the grant of disability element of disability pension the question of rounding off of the disability element does not arise at all. He pleaded for dismissal of the Original Application.

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents. We have also gone through the Release Medical Board proceedings as well as the records and we find that the questions which need to be answered is whether the disabilities of the applicant are attributable to or aggravated by Air Force Service?

6. In the RMB proceedings of the applicant, the disabilities of the applicant i.e. '**PRIMARY HYPERTENSON I-10.0, Z-09.0**' and '**OBESITY E-66.0, Z 09.0**' are opined as NANA and in detailed chart of overweight have been mentioned in para Nos. 5 and 16 of the Counter Affidavit. At the time of discharge from service, we find that applicant's ideal weight was 62 Kg whereas the actual weight was 97 Kg, over weight is 35 Kg, which is 56.45% excess than the

ideal weight. The onset of disabilities was in December, 1999 and November, 1999 respectively. At the time of onset of first disability the applicant's ideal weight was 58.5 Kg whereas the actual weight was 86 Kg, overweight was 27.5 Kg, which was 47% excess than the ideal weight. The study of a national and international reports and molecular sciences reveal that obesity and overweight significantly influence the risk of Hypertension. We are of the view that overweight plays a vital role in disabilities like Hypertension and Diabetes etc. which are a serious health condition that entails a higher risk of cardio-vascular diseases.

7. Further, in the Counter Affidavit it is also mentioned that the applicant was educated about life style measures to reduce weight. He should have reduced his weight to overcome the problem by restricting the diet and required exercise which has not been done by him, therefore, organization cannot be held liable for the own actions of the applicant. There is no denial from the fact that if the claimant is himself not controlling the factors of disabilities which are well within his voluntary control, he cannot be allowed to garner benefit of such beneficial schemes and provisions. We do not find any substance in the submission of the Ld. Counsel for the applicant that the disabilities of **PRIMARY HYPERTENSION I-10.0, Z-09.0.** and **'OBESITY E-66.0, Z-09.0'** have causal connection

with the military service. As such the applicant's disabilities are held as NANA.

8. In view of the discussions made above, **Original Application No. 487 of 2024** lacks merit and same is accordingly **dismissed**.

9. Pending application, if any, stands disposed of.

10. No order as to costs.

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Anil Kumar)
Member (J)

Dated : 17 April, 2025

AKD/-