

**RESERVED****ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW****ORIGINAL APPLICATION No. 631 OF 2017**Monday, this the 18<sup>th</sup> day of February 2019**"Hon'ble Mr. Justice S.V.S. Rathore, Member (J)  
Hon'ble Air Marshal BBP Sinha, Member (A)"**

Ravindra Kumar, No 3010669H, Ex Rect, Son of Shri Mayaram Yadav, R/O Vill-Dhaukalpur, P.O.-Tilsada, Tehsil-Ghatampur, District-Kanpur City (U.P.), present address-16/1, Sulemsarai, Allahabad, (U.P.)-209308.

.....Applicant

Ld. Counsel for: **Shri Manoj Kumar Awasthi**, Advocate  
the Applicant

Versus

1. Union of India through Secretary, Ministry of defence, D (Pension Grievances Cell) Room No 227-B, A Wing, Sena Bhawan, New Delhi-110003.
2. Officer-in-Charge, Records The Rajput Regiment, PIN-900427, C/O 56 APO.
3. PCDA (P), Draupadighat, Allahabad (U.P.).
4. The Chief Controller Defence Accounts, Draupadi Ghat, Allahabad (UP).

.....Respondents

Ld. Counsel for the : **Shri V.P.S. Vats**,  
Respondents. Central Govt Counsel.

**ORDER****“Per Hon’ble Air Marshal BBP Sinha, Member (A)”**

1. Being aggrieved by denial of disability pension, the applicant has filed the present original application under Section 14 of the Armed Forces Tribunal Act, 2007 wherein he has sought the following reliefs:-

*(a) That this Hon’ble Tribunal may kindly be pleased to quash the impugned rejection orders dated 26.08.2017 and 05.05.2017, passed by the opposite party no. 2, as contained in annexure No 1 & 2 to this original application.*

*(b) That this Hon’ble Tribunal may kindly be pleased to direct the opposite parties to pay the disability pension to the applicant from the date of discharge i.e. 30.02.2011 to actual date of payment and also onwards, and provide the interest on the aforesaid delayed amount of disability pension with 18% p.a. since due date to actual date of payment.*

*(c) That this Hon’ble Tribunal may be pleased to pass any other order or direction which this Hon’ble Court may deem just and proper be passed in favour of the applicant.*

*(d) That this Hon’ble Tribunal may be pleased to award the cost of this original application and legal expenses Rs 10,000/- (ten thousand) and allow the same.*

2. Brief facts of the case are that the applicant was enrolled in the Rajput Regiment on 30.03.2010 and invalided out of service w.e.f. 20.03.2011 in low medical category having rendered less than one year of service due to “MANIC EPISODE (F-30)”. The IMB of the applicant held on 28.02.2011 at Command Hospital, (Central Command) Lucknow assessed applicant’s disability @ 40% for life neither attributable to nor aggravated by military service (NANA). Disability pension claim of the applicant was rejected vide order dated 26.08.2011 and thereafter appeal preferred by the

applicant was also rejected on the ground of limitation i.e. after elapse of stipulated period of five years. Hence this O.A.

3. Ld. Counsel for the applicant pleaded that the applicant was enrolled in the Army in medically and physically fit condition. It was further pleaded that a member is to be presumed in sound physical and mental condition upon entering service if there is no note or record to the contrary at the time of entry. In the event of his subsequently being invalided out from service on medical grounds, any deterioration in his health is to be presumed due to service conditions. He pleaded that the disability of the applicant is due to stress and strain of military service while undergoing basic military training and it should be accepted as attributable to military service. Relying upon Hon'ble Apex Court judgments in the cases of ***Dharamvir Singh vs UOI & Ors***, (2013) 7 SCC 316, ***Sukhvinder Singh vs UOI & Ors***, (2014) STPL (WEB) 468 SCC, ***UOI & Ors vs Rajbir Singh***, (2009) 9 SCC 140, ***Veer Pal Singh vs Ministry of Defence***, (2013) 8 SCC 83, ***UOI & Ors vs Ram Avtar***, Civil Appeal No 418 of 2012 dated 10.12.2014 the Ld. Counsel for the applicant pleaded for disability pension to be granted to the applicant.

4. On the other hand, Ld. Counsel for the respondents submitted the applicant is not entitled to disability pension in terms of Rule 173 of Pensions Regulations for the Army 1961 (Part-I) which stipulates that, "unless otherwise specifically provided, a disability pension may be granted to an individual who is invalided out of service on account of a disability which is attributable to or aggravated by military service and is assessed at 20% or over but in the instant case though the disability of the applicant has been assessed @ 40% for life but it is neither attributable to nor aggravated by military service. Therefore the applicant is not entitled to disability pension. Ld. Counsel for the respondents further submitted that as per clinical note dated 13.08.2010 (CA-1), the applicant on having abnormal behaviour was admitted to Military Hospital (MH), Fatehgarh for treatment of Peripheral Neuropathy. The applicant was referred to Command Hospital (Central Command) Lucknow for treatment where after administering treatment he was granted 42 days sick leave for the period from 02.10.2010 to 12.11.2010 but after expiry of sick leave period the applicant did not report back to the Hospital. As averred by applicant's relatives he reached Allahabad, worked as labour and on falling sick he was admitted to Civil Hospital, Allahabad on 30.11.2010 on account of Malaria and Dengue. He was

brought back by his relatives and on recommendations of Neurologist and Psychiatrist, he was invalided out of service. In the instant case he submitted that since the IMB of the applicant has opined the disability as neither attributable to nor aggravated by military service hence he is not entitled to disability pension. He pleaded the O.A. to be dismissed.

5. We have heard Ld. Counsel for the parties and perused the material placed on record.

6. At the very outset it has been observed that the applicant was found suffering from "MANIC EPISODE" on 13.08.2010 i.e. within five months from the date of enrolment while he was undergoing basic military training. The petitioner was ultimately invalided out of service on 20.03.2011 by a duly constituted Invaliding Medical Board (IMB) held on 28.02.2011.

7. Further it is worthwhile mentioning that the applicant, when transferred to Command Hospital (Central Command) Lucknow, was recommended to travel with guard on account of lunacy and upon grant of sick leave he was found at Allahabad where his relatives traced him.

8. Since the disease as per IMB has started within five months of enrolment, we feel it imperative to quote summary and opinion given by Maj Vikas Mathur, Graded

Specialist Psychiatry, Command Hospital, Lucknow dated 10.02.2011 in respect of the applicant while admission in the Hospital, as under:-

*"History. Detailed history revealed that individual initially admitted at MH Fatehgarh on 18 Aug 10 with complaints of paraesthesia and tingling both lower limbs of 45 days duration. Unit had sent AFMSF-10 dt 13 Aug 10 mentioning that he looks disinterested in training and noticed to be gloomy and depressed.*

*Individual was subsequently transferred by Medical Spl, MH Fatehgarh for further management and opinion of Psychiatrist for Depression and Neurologist for Peripheral Neuropathy to CH (CC) Lucknow.*

*On evaluation at CH (CC) Lucknow by Psychiatrist revealed that individual behaviour of disinterest in training, loss of appetite and depressed mood was in background of witnessing a dead body of recruit who died in vehicle accident and due to his physical symptoms. His mood had improved with improvement in his physical symptoms of paraesthesia and tingling of both lower limbs so he was declared fit in medical cat S1 of SHAPE factors and was transferred to Neurology ward for further management.*

*He was treated as a case of Peripheral Neuropathy with Tab Folic Acid and was recommended 06 (six) weeks sick leave and was discharged on 30 Sep 10.*

*But after discharge he didn't reach home. He reached Allahabad where he worked as daily labour. Individual was admitted as on 30 Nov 10 at Civil Hospital Allahabad with 6-7 days history of fever associated with chills and rigor, reduced urine output and constipation. He was treated OW lines of Malaria, Dengue fever and his relative was informed.*

*He was discharged on 3 Dec 2010 and was brought to his home by his relatives when he was noticed to be talking excessively, overactive, not sleeping at night, not taking self care, remains happy all the time, disinhibited and was talking that he is god and has special power provided by God so he can see past and can tell future of anyone in this world. He was looking very happy and content.*

*He was taken to faith healer and some rituals were done but there was only mild improvement in his condition so he was brought by his relatives on 13 Dec 10 to MI Room CH (CC), Lucknow and was subsequently referred for Psychiatric evaluation.*

*On evaluation his vitals were stable. No abnormality detected on general and systemic*

examination. On mental state examination he was found to be kempt, over familiar and disinhibited individual with increased psychomotor activity. Speech was pressured with difficulty to interrupt but was relevant. Mood he described as 'bahut kuchh hai'. Affect was elated and was appropriate to his thought content. There was increased stream of thoughts with delusion of grandiose identity (main bhagwan hoon) and grandiose ability (main logon ka bhoot aur bhavisya bata sakata hoon, main akele hi Pakistan ko hara sakta hoon). There was no hallucination judgment was impaired. He lacked insight. Biodrives were disturbed in form of poor sleep, reduced appetite all in a clear sensorium.

His relevant investigations including thyroid profile, CECT head and EEG study were essentially normal. He was treated with atypical antipsychotics Tab Olanzapine and mood stabilizer Tab Divalproex sodium.

He responded to treatment with gradual improvement in his over activity disturbed biodrives, pressured speech and subsequently his delusion of grandiose identity and ability. He also regained insight into his illness.

He was reviewed by Neurologist for Peripheral Neuropathy and was declared Peripheral Neuropathy-NAD.

His antipsychotic was tapered and stopped and was maintained on mood stabilizers. Further MSE and was observations were satisfactory.

#### OPINION

This 20 yr old recruit with about 09 months of training is a case of Manic Episode (ICD No F-30) who has manifested soon after joining training has poor stress tolerance and will remain vulnerable for frequent manic or depressive episodes.

He will hence not suitable for military service and is recommended to be invalided out of service in medical category S5 of SHAPE factors.

#### Advised

1. To continue Tab Divalproex Sodium 500 mg 1-0-1 under a qualified psychiatrist supervision.
2. Periodic review by a qualified psychiatrist.

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(Vikas Mathur)  
Maj  
Graded Spl Psychiatry

8. There is hard evidence that the petitioner's behaviour was abnormal shortly after enrolment and thereafter he was referred for psychiatric evaluation. Therefore there appears to be strong weightage in the stand of the respondents that the disease was constitutional in nature and that psychiatric ailment cannot be detected during enrolment medical board. We are in agreement with the opinion of Psychiatrist and IMB proceedings that a recruit suffering from mental disorder cannot bear stress and strain of military training. Additionally, a recruit is akin to a probationer and hence prima facie the respondents as an employer have a right to discharge a recruit who is not meeting the medical requirement of military service. In view of the foregoing and the fact that the disease manifested within four to five months of enrolment we are in agreement with the opinion of IMB that the applicant was suffering from "Manic Episode" before enrolment and thus the disability cannot be accepted as attributable to or aggravated by military service.

9. Apart from, in similar factual background Co-ordinate Bench of this Tribunal dismissed T.A. No. 1462/2010 vide order dated 23.05.2011 wherein the applicant was enrolled on 21.01.2000 and was discharged on 27.04.2010 as he was suffering from Schizophrenia which



is alike "Manic Episode". Said disability was assessed @ 80% for two years and it was opined by the Medical Board to be neither attributable to nor aggravated by military service. Said order of this Tribunal has been upheld by Hon'ble Apex Court as Civil Appeal Dy. No. 30684/2017 was dismissed on delay as well as on merits.

10. In view of the above, the O.A. is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

No order as to costs.

**(Air Marshal BBP Sinha)**  
**Member (A)**

**(Justice S.V.S. Rathore)**  
**Member (J)**

Dated: February, 2018  
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