

Court No. 1 (E-Court)**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 233 of 2019**

Monday, this the 17th day of January, 2022

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Triloki Nath Pandey, S/o Narad Muni Pandey, R/o Village – Mahesh Nagar Colony, Lanka, N 1/68, B 83, Nagwa Samne Ghat, Varanasi, UP-221005.

..... **Applicant**

Ld. Counsel for the: **Shri V.P. Pandey**, Advocate
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, 101 South Block, New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarters of Ministry of Defence, South Block, New Delhi-110001.
3. Officer-In-Charge, Bengal Engineer Groups Records, PIN-908779, C/o 56 APO.
4. Add. Dte. Gen. Personnel Services (PS-5), Integrated HQ of MoD (Army), Adjutant General Branch Room No. 18, Plot No. 108, West L-Block, Church Road, New Delhi-110011.
5. Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad.

.....**Respondents**

Ld. Counsel for the Respondents. : **Shri Arun Kumar Sahu**, Advocate
Central Govt. Counsel

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

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

- (I) To issue order/direction to respondents to grant of disability pension to the applicant from the date of his discharge from service i.e. w.e.f. 31.01.2017.*
- (II) Any other relief as considered proper by this Hon’ble Tribunal be awarded in favour of the applicant.*
- (III) Allow this application with exemplary costs.*

2. Briefly stated, applicant was enrolled in the of Indian Army on 26.05.1979 and was discharged with effect from 01.12.1991 in Low Medical Category on administrative grounds being service no longer required due to having five red ink entries punishment under Rule 13 (3) Item III (V) of the Army Rules, 1954. At the time of discharge from service, the Release Medical Board (RMB) held at 170 Military Hospital on 21.11.1999 assessed his disability **‘ALCOHOL DEPENDENCE SYNDROME 303 V-67’ @20%** for two years and opined the disability to be neither attributable to nor aggravated (NANA) by service. The applicant’s claim for grant of service pension was rejected vide letter dated 03.08.1994 on the ground that he has rendered only 12 years and 174 days of qualifying service. The applicant preferred Mercy Appeal dated 13.03.2012 which was replied by the respondents vide leer dated 11.05.2012. The applicant preferred another Petition which too

was replied by the respondents vide letter dated 22.11.2013. Again the applicant preferred Mercy Appeal dated 09.04.2015 which too was replied by the respondents vide letter dated 09.06.2015. 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 Army and there is no note in the service documents that he was suffering from any disease at the time of enrolment in Army. The disease of the applicant was contracted during the service, hence it is attributable to and aggravated by military Service. He further pleaded that various Benches of Armed Forces Tribunal have granted disability pension in similar cases, as such the applicant be granted disability pension as well as arrears thereof, as applicant is also entitled to disability element of disability pension and its rounding off to 50%.

4. On the other hand, learned counsel for the respondents opposed the submissions of learned counsel for the applicant and submitted that since the disability of the applicant has been regarded as NANA by the RMB, therefore, condition for grant of disability element of pension does not fulfil in terms of Pension Regulations for the Army, 2008 (Part I) and, therefore, the competent authority has rightly denied the benefit of disability element of pension to applicant. He pleaded for dismissal of Original Application.

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents. We have also gone through the RMB proceedings as well as the records. The sole question which needs to be answered by us is whether the disability of the applicant i.e. '**ALCOHOL DEPENDENCE SYNDROME 303 V-67**' is attributable to or aggravated by military service?

6. We have given our thoughtful consideration to the issues raised by the learned counsel for the applicant. On careful analysis, we find that "**ALCOHOL DEPENDENCE SYNDROME 303 V-67**" is primarily a disease where an individual cannot control his excessive drinking habits. This disease leads to being drunk while on duty and poor performance during discharge of official duties. It is also very clear that drinking Alcohol and exercise of discipline and moderation while drinking is a matter of personal choice.

7. It is also well known that all efforts are made by Army doctors and the organization to help a soldier who has become a victim of '**ALCOHOL DEPENDENCE SYNDROME 303 V-67**' and only when all efforts fail the soldier is discharged from service on ground of said disease.

8. As far as attributability of the of disability is concerned, we agree with the opinion of the RMB that this disease is neither attributable to nor aggravated by military service.

9. Considering all issues, we are of the considered opinion that Ld. Counsel for the applicant has failed to make out any case in his favour. We agree with the opinion of RMB that the disease of the applicant was neither attributable to nor aggravated by military service. Thus considering that due process has been followed by Army in discharging the applicant from service, we are not inclined to interfere with this process or provide any other relief to the applicant.

10. In view of the above, the **Original Application No 233 of 2019** deserves to be dismissed, hence **dismissed**.

11. No order as to costs.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: 17 January, 2022

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