

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****E-Court No. 1****ORIGINAL APPLICATION No. 471 of 2019****Wednesday, this the 5<sup>th</sup> day of January, 2022****“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

No 15416032-M, Nk(TS) Pradeep Kumar Sharma, Son of Mahendra Sharma, Resident of Village- H. No 13/10, Jai Group Vikas Nagar, Post Office- New Gaon, District- Bulandshahar (U.P.), PIN – 203007.

..... Applicant

Ld. Counsel for the Applicant : **Shri Praveen Kumar and Shri Sudhir Kumar Singh, Advocate**

Versus

1. Union of India, through Secretary Ministry of Defence, (Army) South Block, New Delhi- 110011.
2. The Chief of Army Staff, Integrated Headquarters, Ministry of Defence, South Block – III, Sena Bhawan, New Delhi, PIN- 110011.
3. Senior Records Officer, Army Medical Corps Record Office (MP Section), PIN – 900450, C/o 56 APO.
4. Headquarters AMC Centre & College, PIN- 900450, C/o 56 APO.
5. Additional Directorate General Discipline & Vigilance (DV-3), Adjutant general’s Branch, Integrated Headquarters of Ministry of Defence (Army) DHQ PO, New Delhi, PIN- 110011.

6. DGMS (Army), IHQ MOD (Army), DHQ PO New Delhi.
7. No 2 Tech Trg Wg AMC Centre & College, PIN- 900450, C/o 56 APO.

**.....Respondents**

Ld. Counsel for the Respondents. : **Dr. Shailendra Sharma,  
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 quash the impugned order dated 27.12.2018 passed by the OP No 3, order dated 09.04.2019, passed by the OP No 4 and medical board proceedings of the applicant was kept in medical category P-3 (P) annexed as Annexure No 1, 2 & 3 of Original Application with all consequential benefits.*
- (ii). *Direct the respondent to conduct the early review medical board for re-categorization as the medical condition of applicant has been improved.*
- (iii). *Pass any order which this Hon’ble Tribunal deem fit and proper under the facts and circumstances of the case in favour of the petitioner, in the interest of justice.*
- (iv). *Allow the Original Application with exemplary cost.*

2. Rejoinder affidavit filed by the applicant is taken on record.

3. Facts giving rise to Original Application in brief are that applicant was enrolled in the Indian Army on 10.01.2003. In the year 2018, he was diagnosed with 'SPONDLOSISTHESIS' and was placed in low medical category P3 (Permanent) with effect from 30.10.2018 and his disability was assessed between 11-14%. Applicant requested for conducting early re-survey medical board which was rejected. Army Medical Corps Records issued order dated 27.12.2018 for retirement of the applicant from service wef 01.02.2020. Applicant was granted extension of service for two years but his extension was cancelled and applicant was retired from service on 01.02.2020. Being aggrieved, applicant has filed instant Original Application for quashing the discharge order and for grant of extension of service for two years upto 09.01.2022.

4. Learned counsel for the applicant submitted that applicant was enrolled in the army in medically fit condition on 10.01.2003. While posted to No. 2 Technical Training Wing, Army Medical Corps Centre & College, Lucknow, applicant suffered with low backache and he was placed in low medical category on 16.05.2018 for diagnosis 'SPONDLOSISTHESIS'. He submitted that it is very common disease which occurs even due to sudden jerk and lifting of heavy weights. Applicant

performed all duties in spite of placing in low medical category and he was fit to be retained in service. He was granted extension of service for two years from 10.01.2020 to 09.01.2022 by the extension board vide order dated 26.04.2018 but he was wrongly discharged from service on 01.02.2020. Due to low medical category applicant was neither granted promotion to the rank of Naik nor his service was extended for two years. Applicant was issued discharge order dated 27.12.2018. Physical condition of the applicant improved with the passage of time, therefore, applicant submitted an application requesting for early review of medical category which was rejected. Applicant was issued show cause notice dated 06.06.2019 to which applicant replied. Applicant filed petition under Rule 6 of Armed Forces Tribunal Procedure Rule 2008 before Armed Forces Tribunal, Principal Bench, New Delhi which was dismissed/returned to the applicant vide order dated 23.08.2018. Learned counsel for the applicant prayed that discharge order of the applicant be quashed and applicant be granted extension of service for two years.

5. Per contra, learned counsel for the respondents submitted that applicant was enrolled in army on 10.01.2003 with terms of engagement on 17 years colour service with 02

years reserve. On 30.10.2018, applicant was placed in low medical category. Applicant was screened for grant of extension of service by two years during the quarter ending Mar 2018 and was granted extension for service limit by two years from 10.01.2020 to 09.01.2022 with the condition that in case of occurrence of any change in medical category and discipline criteria, applicant would become ineligible for retention in service beyond terms of engagement.

6. Applicant was placed in low medical category P-3 (Temporary) on 16.05.2018. Further he was placed in P3 (Permanent) with effect from 30.10.2018 upto 30.10.2020 vide medical board proceedings dated 02.11.2018. On being placed in unacceptable low medical category P3 (Permanent) prior to commencement of extension of service period, the applicant became ineligible for retention into service beyond terms of engagement in terms of Appendix 'A' to Integrated Headquarters, Ministry of Defence (Army letter No B/33098/AG/PS-2(c) dated 20 Sep 2010. Accordingly, the extension of service limit by two years of the applicant was cancelled. Subsequently, Army Medical Corps Record Office issued retirement order of the applicant to be struck of strength from service wef 01.02.2020. Applicant was served show cause

notice. Applicant submitted application dated 01.04.2019 requesting for early review of his low medical category which was returned to the applicant with the intimation that 'early review can be requested only after being observed in permanent low medical category for one year as per IHQ of MoD (Army)/ DGMS (Army) letter No 76086/Ruling/DGMS-5(A) dated 24 Oct 2018. Applicant filed M.A. No 2030/2019 in OA Diary No 4690/2019 which was dismissed by the Hon'ble Armed Forces Tribunal, Principal Bench with the direction that *'No ground is carved out for entertaining the instant application. Dismissed as such'*. Learned counsel for the respondents prayed that the applicant is not entitled for any relief and Original Application filed by the applicant is devoid of merit and is liable to be dismissed.

7. We have heard learned counsel for the parties and perused the documents available on record.

8. The question before us for consideration is whether applicant is authorised for extension of service upto 09.01.2022?

9. As per provisions of Appendix 'B' to Army HQ letter No. B/33098/AG/PS-2(c) dated 20.9.2010 extension of service for

two years is granted to JCO/OR during the extended tenure will be governed by the following considerations:-

(a) *Medical Standard.* The individual should remain in acceptable medical category as applicable during pre-extended tenure.

(b) *Discipline.* The individual should not earn any red ink entry (including recordable censure in case of JCOs only) during the extended service.

*If however, it is noticed that there is drop in the above criteria at any time during the extended tenure, the PBOR will be discharged under relevant Army Rules within a period of maximum six months after serving the JCOs/NCO the 'show cause notice' period of six months is basically meant for discharge drill.*

10. As per paragraph 2(c) of Integrated Headquarters, Ministry of Defence letter dated 26.10.2017, '*Once individuals are placed in unacceptable permanent low medical category' in extension period, they will be issued discharge order in accordance with letter dated 20 Sep 2010 and will undergo a Release Medical Board after issue of discharge Order*'.

11. Para 7 of Integrated Headquarters, Min of Def letter dated 12 May 2016 stipulates that, '*the provision of early review will not be applicable to permanent low medical category JCOs/OR, reporting to hospital for release medical board, consequent to issue of orders for his discharge/release from service, in accordance with the prescribed policy, the medical board will*

*ensure that the individual is examined for release purpose only and his existing medical category is not changed’.*

12. In terms of paragraph 7 of Integrated Headquarters, Min of Def (Army) letter dated 02 Nov 2017 and letter dated 30 May 2019, *‘the provisions of early review of medical category at the request of an individual (further to our letter dated 12 May 2016 (paragraph 1(b) above, will not be applicable to JCOs/OR in permanent Low Medical Category, consequent to issue of orders by Records for discharge/release from service, in accordance with the prescribed policy. Commanding Officers may be advised not to process such applications. In such cases, the Medical Board will ensure that the individual is examined for release purposes only and his existing medical category will not be changed’.*

13. Medical Board is an expert body and it had given the finding to discharge the applicant from service, hence extension of service of the applicant was cancelled. Our attention was drawn to policy letter dated 21.09.1998 Appendix ‘A’ Para 2(b) (i) & (ii) where the following was mentioned:-

*“2(b) (i):- Must continue to remain in medical category AYE. Those who are temporary low medical category at the time of screening board will continue to be in service. If this temporary low medical*



*category is made into permanent low medical category by subsequent recategorization Medical Board before commencement of the enhanced service limit, the individual will be disposed of in accordance with the existing rules on the subject.*

*“2(b)(ii):- The screening boards would screen permanent low medical category PBOR with a view to assess their suitability for retention up to enhanced service of age limit, provided there is ample opportunity for upgradation of their medical category by the subsequent re-categorisation medical board before commencement of the enhanced service limit. The screening board can declared them fit conditionally by adding a clause in their case “subject to his medical category being upgraded to the acceptable level before expiry of his normal tenure.” If they are not assessed fit by the screening board, they will be disposed of in the normal manner and will not be given the benefit of enhanced service limit.”*

14. We hereby reproduce para 13 of A003/2001/DGMS:-

*“13. When a JCO/OR, who is in permanent low medical category ‘2’ or ‘3’, in any SHAPE factor, reports to hospital for medical board, consequent to issue of orders for his discharge/release from service, in accordance with the prescribed policy, the medical board will ensure that the individual is examined for release purpose only and his existing medical category is not changed.”*

15. We find that applicant was screened for extension of service and he was granted extension for two years from 10.01.2020 to 09.01.2022 but applicant was placed in low medical category P3 (Permanent) from 30.10.2018 prior to commencement of extension of service period, hence he became ineligible for further retention in service beyond terms

of engagement. We are therefore, of the opinion that no injustice has been done to the applicant and the decision of cancelling extension was correctly taken and applicant was discharge from service based on extant rules. Further, we do not find any question which needs to be adjudicated in this Original Application.

16. For the aforesaid reasons, the application is considered to be devoid of merit and, consequently, the applicant is not entitled the relief as prayed. The Original Application is liable to be dismissed.

17. A conceptous of our above observations is that the applicant has not been able to make out a case and the application deserves to be dismissed.

18. It is accordingly **dismissed**.

19. No order as to costs.

20. Pending applications, if any, stand disposed off.

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

Dated : 05 January, 2022  
Ukt/-