

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****Original Application No. 323 of 2021**Tuesday, this the 30th day of November, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)Ram Avtar (No. 826777G) {NC(E)} C/o Anand Swaroop, R/o
House No. 178B, Bamanauli, Meerut, Uttar Pradesh Pin -
250404.

..... Applicant

Ld. Counsel for the: **Shri Gyan Singh Chauhan**, Advocate and
Applicant **Shri Ajeet Pratap Singh**, Advocate.

Versus

1. Union of India, through the Secretary, Ministry of Defence, South block, New Delhi-110011.
2. Chief of Air Staff, Air Force Head Quarters New Delhi-110010
3. Air Commodore, 7 Air Force Hospital, Nathu Singh Road. Kanpur.
4. First Appellate Committee, AV(A&N Appeal), Dte of Air Veterans, Air Headquarters, Subroto Park, New Delhi-110010.
5. Second Appellate Committee, Dte. Of Air Veterans (AV-III Appeals), Air Headquarters, AFRO Building, Subroto Park, New Delhi-110010.
6. Air Officer Commanding, Air Force Record Office, Subroto Park, New Delhi-110010.

.....Respondents

Ld. Counsel for the Respondents. : **Shri Alok Kumar Mishra**,
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 :-

- a. *To quash the impugned order dated 29.01.2019 regarding rejection of disability pension by adjudicating authority in the interest of justice.*
- b. *Quash the impugned order dated 14.02.2020 passed by the respondent No.4 contained as Annexure No.1 of the application, in the interest of justice.*
- c. *Direct Respondents to reconsider the case of applicant to allow disability pension and benefits of applicant, in the interest of justice.*
- d. *Costs and expenses of the application in favour of the applicant against all the Opposite Parties.*
- e. *Any other relief or reliefs which this Hon’ble Tribunal deems fit and proper in the circumstances of the case may also be granted.*

2. Briefly stated, applicant was enrolled in the Indian Air Force on 28.01.2009 and was discharged from service on 24.02.2018 (AN) in Low Medical Category on having been found medically unfit for further service in IAF after rendering 09 years and 28 days of service. At the time of discharge from service, the Invaliding Medical Board (IMB) held at 7 Air Force Hospital on 07.11.2017 assessed his disability ‘**ALCOHOL DEPENDENCE SYNDROME (F 10.2, Z09.0)**’ @ 40% for life and opined the

disability 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 13.03.2018 which was communicated to the applicant vide letter dated 27.08.2018. The applicant preferred First Appeal which too was rejected by the respondents vide letter dated 14.02.2020. The applicant also preferred Second Appeal dated 09.06.2021 but of no avail.. 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 disease of the applicant was contacted during the service, hence it is attributable to and aggravated by Air Force 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 IMB, therefore, condition for grant of

disability element of pension does not fulfil in terms of Pension Regulations for the Air Force 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 IMB 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 (F 10.2, Z09.0)**' is attributable to or aggravated by Air Force 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 (F 10.2, Z09.0)**' 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 Air Force doctors and the organization to help a soldier who has become a victim of '**ALCOHOL DEPENDENCE SYNDROME (F 10.2, Z09.0)**' 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 IMB that this disease is neither attributable to nor aggravated by Air Force 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 IMB that the disease of the applicant was neither attributable to nor aggravated by Air Force service. Thus considering that due process has been followed by Air Force 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 323 of 2021** deserves to be dismissed, hence **dismissed**.

12. No order as to costs.

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

Dated: 30 November, 2021

AKD/-