

**E-Court**  
**RESERVED**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**O.A. No. 129 of 2020**

Friday, this the 10<sup>th</sup> day of September, 2021

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

No. 13994500-K Hav (Nur Asst) Lalendra Kumar Choudhary, S/O  
Shri Siya Ram Choudhary, R/O Village & Post- Lakhanpur, Tehsil-  
Tarapur, District-Munger (Bihar)-813201.

..... Applicant

Ld. Counsel for the: **Shri Shailendra Kumar Singh**, Advocate  
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence (Army), New Delhi-110011.
2. The Chief of Army Staff, IHQ of MoD (Army), South Block, New Delhi-110011.
3. DGMS-3D, Dte Gen of Med Ser (Army), Adjutant General's Branch, IHQ of MoD (Army), 'L' Block, New Delhi-110001.
4. OIC Records, AMC Records Office, PIN-900450, C/O 56 APO.
5. CO, No. 4033 Field Hospital, PIN-900433, C/O 99 APO.
5. The Commanding Officer, No 1 Training Battalion (Animal Transport), ASC Centre (North), Pin-900493, C/O 56 APO.

..... Respondents

Ld. Counsel for the : **Shri Namit Sharma**, Advocate.  
Respondents Central Govt Counsel.

**ORDER (Oral)**

1. Being aggrieved with impugned orders dated 23.01.2019 (Annexure A-4) and 30.12.2019 (Annexure A-1), applicant has filed the present O.A. under Section 14 of the Armed Forces Tribunal Act, 2007 and prayed for the following reliefs:-

*“(i) To quash and set aside the respondent No 4 letter dated 30 Dec 2019 (Annexure A-1) and 23 Jan 2019 (Annexure A-4).*

*(ii) To allow the applicant to continue in service with all consequential benefits.*

*(iii) To impose a suitable cost as deem fit by this Hon’ble Tribunal on the respondents on their unprofessional approach and not giving due weightage to their own policy dated 24 Oct 2018 where both the letters dated 12 May 2016 and 02 Nov 17 were superseded and applicant suffered a mental harassment.*

*(iv) Any other relief as considered proper by the Hon’ble Tribunal be awarded in favour of the applicant.*

2. Brief facts of the case are that applicant was enrolled in the Army on 28.02.1996. He was promoted to the rank of Hav w.e.f. 13.02.2014 and superannuated having completed more than 24 yrs of service on 01.03.2020 (FN) in low medical category P2 (Permt) under Rule 13 (3) Table I (i) of Army Rules, 1954. Prior to discharge from service, applicant was screened for extension of service by two years but further extension was not granted due to him being placed in unacceptable medical category P2 (T-24) for disability ‘Obesity’ and subsequently his retirement order was issued vide letter dated 23.01.2019 (Annexure A-4 to O.A.) and granted service pension as

per PPO dated 18.02.2020. The applicant was serving in low medical category from the year 2017 as per Medical Board dated 18.05.2017. His further re-categorization Medical Board was due on 25.01.2020 and applicant was about to complete 24 years of service in February, 2020. Prior to that he was required to be screened for extension of service but the hurdle came in way i.e. policy letter dated 06.06.2012 which says 'case of category BEE (temp or permt) i.e. low medical category for 'Obesity' will not be considered for extension of 2 years service'. Accordingly, his discharge order was issued vide letter dated 23.01.2019 and he was discharged from service w.e.f. 01.03.2020 (FN). Earlier, since applicant was placed in low medical category and his next Medical Board was due on 25.01.2020, his Review Medical Board was carried out on 05.12.2019 which upgraded his disability with regard to 'Obesity' as P1 and his disability Primary Hypertension remained as P2 (Permt). Later, when it came to light that the Review Medical Board was against policy in vogue, it was cancelled on the authority of letter dated 30.05.2019 and accordingly, his Release Medical Board (RMB) was conducted on 08.01.2020 and he was discharged from service. This O.A. has been filed for quashing of letters dated 30.12.2019 (issuing order for cancellation of Review Medical Board held on 05.12.2019) and 23.01.2019 (discharge order of applicant) and continuance of applicant in service with all consequential benefits.

3. Learned counsel for the applicant submitted that applicant's disabilities were detected in August, 2017, therefore he is entitled for

Review Medical Board in accordance with para 6 of policy letter dated 24.10.2018. His further contention is that since Review Medical Board dated 05.12.2019 has upgraded applicant's disability 'Obesity' from medical category P2 to P1, therefore he is entitled for extension of service for a period of two years. His other submission is that since sanction for holding Review Medical Board was accorded by competent authority in accordance with policy letter dated 24.10.2018, therefore cancelling the same by AMC Records vide letter dated 30.12.2019 is not in order. He pleaded that applicant be permitted to continue in service for another two years to get further promotion in higher rank for which he has already undergone promotion cadre.

4. Rebutting submissions of learned counsel for the applicant, respondents' learned counsel submitted that applicant was screened for extension of service limit by two years vide Extension Service Board (ESB) for quarter ending March, 2018 and service extension could not be granted due to applicant being placed in unacceptable medical category P2 (T-24) for disability 'Obesity' and subsequently retirement order being issued on 23.01.2019. His further submission is that case of applicant was not accepted for extension of service in terms of policy letter dated 06.06.2012 which lays down that if an individual is placed in low medical category (temp/permt) on account of suffering from 'Obesity', further extension of service for two years will not be considered. Learned counsel for the respondents further submitted that applicant's case cannot be accepted in terms of policy

letter dated 06.06.2012 and 24.10.2018. He pleaded for dismissal of O.A.

5. We have perused the material placed on record and heard submissions of both the parties at length.

6. It is not disputed that applicant was placed in low medical category for disabilities 'Obesity' and 'Primary Hypertension'. Applicant's Re-categorization Medical Board was conducted on 03.02.2018 which placed him in medical category P2 (permt) for both the disabilities w.e.f. 25.01.2018. Applicant's Review Medical Board dated 05.12.2019, placing him in medical category P1 for 'Obesity' and P2 for 'Primary Hypertension', was cancelled vide letter dated 30.12.2019. Therefore, it is obvious that at the time of screening board for extension of service, applicant was in low medical category.

7. We have gone through policy letters dated 12.05.2016 and 02.11.2017 referred by learned counsel for the respondents and we find that the aforesaid policies have been superseded vide policy letter dated 24.10.2018 which is prevalent at present and that permits applicant to undergo Review Medical Board if he is in permanent low medical category for the last one year.

8. During the course of argument learned counsel for the respondents submitted that applicant's case cannot be considered for extension of service in view of policy dated 06.06.2012. We have perused the aforesaid policy and we find that since applicant was placed in low medical category for disability 'Obesity', he is not entitled for extension of service keeping in view the embargo

imposed by aforesaid policy which lays down that if an individual is placed in low medical category on account of suffering from 'Obesity', he will not be considered for extension of service i.e. for two years. For convenience sake, extract of policy letter dated 06.06.2012 is reproduced as under:-

*"2. x x x x x x x x. It is pertinent to bring out that the policy on extension for 2 yrs is based entirely on the IHQ of MoD (Army) letter No B/33513/AG/PS-2(c) dated 10 Oct 1997 which is for criteria for promotion. Also, as per para 2 of IHQ of MoD letter No B/33513/AG/PS-2(c) dated 22 Feb 2001, it is laid down that cases of category BEE (Temp or Permt) for obesity will not be considered for extension of 2 years, unless they are regular sportsmen, engaged in Wrestling, Boxing, Weight Lifting, Hammer Throw, Javelin Throw, Discus Throw, Shot Put or Best Physique (Body Building) as a part of sports team. x x x x x x x."*

9. Thus, from the aforesaid, it is clear that applicant being placed in low medical category for 'Obesity' is not entitled for extension of two years tenure being not a sportsman.

10. We have also perused policy letter dated 30.05.2019 issued by Adjutant General's Branch, Directorate General of Medical Services (Army), New Delhi and we find that once release/discharge order is issued, early review medical board cannot be held.

11. In view of the above, O.A. lacks merit and is hereby **dismissed**.

12. No order as to costs.

13. Pending misc applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated:10.09.2021  
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