

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

**O.A. No. 167 of 2017**

Monday, this the 06<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)**

JC-243956N Ris Dilip Kumar Singh S/O Shiv Mohan Singh, R/O  
Murarkhera, Post India Mahu, District-Unnao, U.P.

..... Applicant

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

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, New Delhi-110011.
3. CO, 19 Armd Unit, C/O 56 APO, Brassey Avenue, Church Road, New Delhi-110011.
4. CO Military Hospital, Jodhpur (Rajasthan).
5. Senior Record Officer for OIC Records.

..... Respondents

Ld. Counsel for the : **Shri Bipin Kumar Singh**, Advocate.  
Respondents Central Govt Counsel.

**ORDER (Oral)**

1. Being aggrieved with impugned order dated 15.02.2017 applicant has filed the present O.A. under Section 14 of the Armed Forces Tribunal Act, 2007 and prayed for the following reliefs:-

*“(i) Issue/pass an order or direction of appropriate nature whereby commanding the respondents to produce the record in original and thereafter quash the impugned order dated 15.02.2017 annexed as annexure No A-1 (i) with the application.*

*(ii) Issue/pass an order or direction of appropriate nature whereby commanding the respondents to conduct his medical test with any other independent medical board.*

*(iii) Allow the application with all consequential benefits with exemplary cost.*

2. In this case, the facts are almost undisputed and admitted to the parties. However, some of the facts required for adjudication are that applicant was screened for two years extension of service in April 2015 as per para 3 (a) of policy letter dated 03.09.1998 which was revised vide letter dated 20.09.2010 and made applicable w.e.f. 01.04.2011. In the screening board for extension of two years service, he was found fit and the occurrence was notified vide Part II Order dated 02.05.2015. After granting extension of two years service, he was downgraded to Low Medical Category (LMC) S1H1A1P3 (T-24) w.e.f. 07.08.2015 to 22.01.2016, S1H1A1P2(T-24)E1 w.e.f. 22.01.2016 to 08.07.2016 and S1H1A1P3 (P)E1 w.e.f. 08.07.2016 to 07.07.2018 for diagnosis ‘Primary Hypertension’, ‘Obesity’ and ‘Dyslipidemia’. Therefore, since the applicant was placed in LMC for ‘Obesity’, his release order was issued vide letter

dated 14.12.2016 in terms of policy which restricts extension of two years of service in LMC particularly for 'Obesity'.

3. Submission of learned counsel for the applicant is that applicant was fully fit for extension of two years tenure as he was found eligible by the Screening Board held in the month of Apr 2015 but respondents have contrived whole things in order to promote other incumbent in his place. His further submission is that on knowing that some conspiracy was being made in his re-categorization medical boards, applicant had got himself medically examined in CMC Hospital, Delhi Road, Hisar who declared him physically and medically fit. Applicant's further submission is that his medical test be conducted by any other independent medical board to ascertain his medical condition, as he feels some foul play has been done to him.

4. The respondents in their response have corroborated the basic facts about the applicant and stated that the petitioner was granted two years extension of service in terms of Integrated HQ of MoD (Army) policy letter dated 20.09.2010. Subsequently, the applicant being placed in LMC before commencement of extension of service became ineligible for grant of two years of extension of service and his discharge order dated 14.12.2016 was issued with directions to applicant to report to Armoured Corps Depot on 05.07.2017 and conveyed to applicant vide letter dated 15.02.2017 mentioning therein his date of discharge as 31.07.2017. The respondents submitted that one of the grounds for the applicant to be LMC is 'Obesity', the same was duly considered being the opinion of the

expert body i.e. Release Medical Board (RMB) and accordingly, the applicant was found to be ineligible for grant of extension of service. The respondents have further drawn our attention to policy letter dated 20.09.2010 which reads as under:-

*“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.*

*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 declare 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.”*

5. The respondents have further submitted that vide policy letter dated 06.06.2012, it has been laid down that cases of category BEE (Temporary or Permanent) for ‘Obesity’ will not be considered for extension of two years service unless they are regular sportsman. As such the individual is not eligible for extension of two years service on this ground.
6. We have heard the case and perused the pleadings on record.
7. It is seen that vide para 2 (b) of Appx ‘A’ to policy letter dated 20.09.2010, procedure and criteria for screening of PBOR in the Army, the following is the eligibility for grant of extension in respect of personnel in medical category BEE:-

Appx 'A'

*“2(b)(ii). **Eligible upto Medical Category 'BEE'.** Personnel placed in category 'BEE' will be eligible for extension in service. This will include both temporary and permanent low medical categories. This will be irrespective of whether or not the disease, sickness or injury is attributable / non-attributable to or aggravated by service conditions. However, cases of medical category 'BEE' (both temporary and permanent) due to psychological causes, misconduct or self inflicted will not be eligible for extension in service.*

*(iii). (aa) Eligibility at (i) and (ii) above is subject to proficiency of the affected personnel being of a specially high standard and suitable appointments being found for them within the Regiment/Corps.*

*(ab) The above yardsticks will apply uniformly to all categories of JCOs/ NCOs and no consideration will be given to categories like Clerks, Storemen etc on the ground that a particular disability (hearing, eye-sight and so on) does not interfere in the performance on their duties.”*

8. In addition, a clarification was issued vide policy dated 06.06.2012 stating that the criteria for two years extension in case of JCOs and ORs will be the same as for promotion and that personnel found to be in LMC BEE (temporary or permanent) for 'Obesity' will not be considered for extension of two years unless they are a regular sportsman as per para 2 of IHQ of MoD letter dated 22.02.2001. It is noted that applicant was placed in LMC w.e.f. 07.08.2015 for 'Obesity' in addition to other low medical categories. As such, he became ineligible for extension of service as per provisions of policy letter dated 22.02.2001. It is noted that para 20 of Army Order 3/2001, deals with policy on disposal of overweight JCOs, NCOs & OR and reads as under :-

**“PART IV (a) – POLICY ON DISPOSAL OF OVERWEIGHT JCOs, NCOs AND OR.** *During ME of JCOs, NCOs and OR, the body weight will be checked as per the age, height and weight chart published at Appx 'A' to this order and disposal will be as under:-*

*(a) (i) If weight is more than 10 per cent but less than 20 percent over and above the ideal body weight (IBW), the individual has no symptoms/signs of any disease and no abnormality is detected even after investigations, the individual will be advised in writing in the sick report book*

*to reduce his weight within 12 weeks by strict dieting and physical exercises.*

*(ii) After 12 weeks, if the individual, has not brought down his body weight to less than 10 percent over and above his IBW, he will be placed in medical category P2(T-24).*

*(iii) At the end of one year, if the individual continues to be overweight by more than 10 per cent over his IBW, he will be downgraded to category P2(Perm) and will be debarred from promotion to the next higher rank.*

*(iv) After the individual is placed in permanent LMC for obesity, no sheltered employment will be given. After contractual period of service individuals may be released from service as per AR-13.*

*(b) If the body weight is in excess of IBW by more than 20 percent, investigations will be carried out with a view to exclude any metabolic abnormality and he will be placed in medical category P-2(T-24). Rest is as per para 20(a)(iii) above.”*

9. Sub para (iv) above categorically states that after the individual is placed in LMC for ‘Obesity’, no sheltered employment will be given and the individual may be released after contractual service as per Army Rule 13.

10. We have also gone through para 13 of Army Order 03/2001, which lays down as under:-

*“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.”*

11. Therefore, in accordance with Para 13 aforesaid, when an individual is examined for release purpose, the medical category cannot be upgraded. Medical Fitness Certificate obtained from CMC Hospital, Hissar is of no help to applicant being issued by other agency and not from Army.

12. Undoubtedly, the applicant was in LMC on account of ‘Primary Hypertension’, ‘Obesity’ and ‘Dyslipidemia’ at the time when he was

due for extension of two years tenure and since applicant's disabilities included 'Obesity' which is a hurdle in terms of Army Order 3/2001, he was denied extension of tenure for two years. We, therefore, find that due process has been followed and no injustice has been done to applicant and the decision of not granting him extension for two years is correctly taken based on extant rules.

13. We find no basis for grant of any relief to the applicant. The OA is **dismissed**.

14. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated: 06<sup>th</sup> September, 2021  
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