

**Court No. 1 (E. Court)****ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW****Original Application No. 664 of 2021**

Thursday, this the 17<sup>th</sup> day of February, 2022

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

No. 15440356W, Ex. Amb. Asst. Abhishek Kumar, sonof Late Abhinandan Singh, resident of 37A/30/9R Madhu Nagar, Agra, U.P.-282001.

..... **Applicant**

Ld. Counsel for the: **Shri Veer Raghav Chaubey**, Advocate  
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence, Government of India, South Block, New Delhi-110011.
2. Recod Office, Army Medical Corps, PIN-900450, C/o 56 APO.
3. Officer of the PCDA (Pensions), Drowpadi Ghat, Allahabad.

.....**Respondents**

Ld. Counsel for the : **Ms. Appoli Srivastava**, Advocate  
Respondents. 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) *This Hon'ble Tribunal may kindly be pleased to direct the respondents to grant the increased disability pension to the applicant.*
- (ii) *This Hon'ble Tribunal may granted to disability pension w.e.f. 22.12.2017 their respective date of retirement.*
- (iii) *Pass any other order or direction which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.*

2. Briefly stated, applicant was enrolled in the Army Medical Corps of Indian Army on 13.09.2012 and was invalided out from service on 22.12.2017 in Low Medical Category under Rule 13(3) Item III (iii) of the Army Rules, 1954. At the time of discharge from service, the Invaliding Medical Board (IMB) held at Military Hospital, Jalandhar Cantt. on 20.11.2017 assessed his disabilities (i) **'ALCOHOL DEPENDENCE SYNDROME (F 10.2)'** @40% for life and (ii) **'INTENTIONAL SELF HARM (X-80)'** @ 40% for life, **composite disabilities @60% for life** and opined the disabilities to be neither attributable to nor aggravated (NANA) by service. The applicant's claim for grant of disability pension was rejected vide letter dated 07.05.2018. The applicant preferred First Appeal which too was rejected vide letter dated 23.07.2021. 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 diseases of the applicant were contracted during the service, hence they are 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 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 disabilities of the applicant have been regarded as NANA by the IMB, therefore, condition for grant of disability 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 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 disabilities of the applicant i.e. '**ALCOHOL DEPENDENCE SYNDROME (F 10.2)**' and (ii) '**INTENTIONAL SELF HARM (X-80)**' are 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 (F 10.2)**' and (ii) '**INTENTIONAL SELF HARM (X-80)**' are primarily diseases where an individual cannot control his excessive drinking habits. These diseases lead 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 (F 10.2)**' and (ii) '**INTENTIONAL SELF HARM (X-80)**' and only when all efforts fail the soldier is discharged from service on ground of said diseases.

8. Further, Para 6 of Chapter – V of Guide to Medical Officers (Military Pensions), 2002 provides that "*Compensation cannot be awarded for any disablement or death arising from intemperance in the use of alcohol, tobacco or drugs, or from sexually transmitted diseases, as these are matters within the member's own control. It follows that where alcohol, tobacco or drugs or sexually transmitted diseases have aggravated an accepted disability, it is necessary to exclude the effect thereof in assessing the disablement ascribable to service condition.*"

9. In view of above, as far as attributability of the of disabilities are concerned, we agree with the opinion of the IMB that these diseases are neither attributable to nor aggravated by military service.

10. 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 diseases of the applicant were neither attributable to nor aggravated by military service. Thus considering that due process has been followed by Army in invaliding the applicant from service, we are not inclined to interfere with this process or provide any other relief to the applicant.

11. In view of the above, the **Original Application No. 664 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: 17 February, 2022

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