

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW
(CIRCUIT BENCH, NAINITAL)**

ORIGINAL APPLICATION No. 429 of 2021

Tuesday, this the 31st day of May, 2022

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

JC-674559K Nb Sub/MT Amrendra Singh, Vill-Bharsar, PO-
Bharsar, District-Gajipur, Uttar Pradesh

..... Applicant

Learned counsel for the : **Shri Kishore Rai**, Advocate
Applicant

Versus

1. Union of India, Ministry of Defence through its Secretary,
South Block, New Delhi-110011.
2. Senior Record Officer, Records ASC Records South,
Bangalore, PIN-900493.
3. Commanding Officer, 5685 ASC Bn (MT), PIN-905685,
C/o 56 APO.

.....Respondents

Learned counsel for the: **Shri Rajesh Sharma**, Advocate
Respondents. Central Govt. Counsel

ORDER (Oral)

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- (a) *A direction to quash the order dated 01.06.2021 passed by respondent No 3 or to-*
- (b) *A direction to grant the extension of service the applicant as the sheltered appointment is available with the unit.*
- (c) *Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant.*

2. Brief facts of the case are that the applicant was enrolled in the Army on 31.05.1995. He was placed in low medical category P3 (T-24) w.e.f. 24.06.2019 for six months with disabilities (i) Hypertension and (ii) Impaired Fasting Glucose. In subsequent re-categorization medical board held on 02.01.2020, his medical category was upgraded to P2 (permt) and accordingly he was promoted to the rank of Naib Subedar w.e.f. 01.07.2020 and discharged from service on 31.05.2021 under Rule 13 (3) I (i) (a) of Army Rules, 1954 on completion of the period of tenure specified in the Regulations for his rank due to unacceptable medical category. This O.A. has been filed to grant extension of tenure for two years.

3. Learned counsel for the applicant submitted that the applicant being placed in unacceptable medical category was performing his duty to the entire satisfaction of his superior officers in sheltered appointment. His further submission is that the applicant should not have been discharged from

service during Covid pandemic as he was the only earning member of his family to feed the entire family. His other submission is that the Govt of India has issued guidelines that during the Covid pandemic no one shall be expelled from service. He further submitted that IHQ of MoD (Army) vide letter dated 05.05.2020 has issued certain guidelines with regard to extension of service and the applicant fulfils the criteria for extension of two years service. He submitted that the applicant has capacity to work with extreme dedication despite being placed in low medical category. He pleaded for two years extension of service.

4. On the other hand, learned counsel for the respondents submitted that as per IHQ of MoD (Army) policy letter dated 05.05.2020 an individual must continue to remain in medical category SHAPE-I and the persons in permanent low medical category would be screened with a view to assess their suitability for grant of extension in service. He further submitted that if a person is due for re-categorization medical board prior to commencement of extension, the screening board can declare such person as 'provisionally' fit for extension subject to medical category being upgraded to acceptable level before expiry of normal terms of engagement. His further submission is that if such a person is not found medically fit prior to commencement of extension, he is discharged from service in terms of policy letter dated

05.05.2020. He pleaded for dismissal of O.A. on the ground that since the applicant was not in acceptable medical category prior to commencement of extension period, he was discharged from service.

5. We have heard learned counsel for the parties and perused the material placed on record.

6. The applicant while serving in the Army was placed in low medical category P3 (T-24) for disabilities Hypertension and Impaired Fasting Glucose. In subsequent re-categorisation medical board held on 02.01.2020 his medical category was upgraded to P2 (Permt) and he was promoted to the rank of Naib Subedar W.e.f. 01.07.2020. The applicant was screened for extension of tenure by two years in November, 2020 but it could not be granted due to him being placed in unacceptable medical category and accordingly, he was discharged from service w.e.f. 31.05.2021.

7. The IHQ of MoD (Army) vide letter dated 05.05.2020 has issued certain guidelines for extension of tenure to personnel placed in low medical category. We have perused the aforesaid policy and we find that personnel placed in permanent low medical category are not eligible for two years service extension. For convenience sake, para 2 (iii) of aforesaid policy letter is excerpted below:-

"(iii) Permt LMC. The pers in permt LMC would be screened with a view to assess their suitability for grant of extn in service. If pers are due for re-cat

med bd prior to commencement of extn, the screening bd can declare such pers as 'provisionally' fit for extn subject to med cat being upgraded to acceptable level before expiry of normal terms of engagement. If not assessed fit by screening bd or not upgraded to acceptable med cat prior to commencement of extn, these pers will be disposed of in normal manner and not be granted benefit of extn of service."

8. From the aforesaid we find that the applicant could not be granted two years service extension as he was placed in permanent low medical category.
9. The O.A. fails and is accordingly **dismissed**.
10. No order as to costs.
11. Miscellaneous application(s), pending if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 31.05.2022
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