

**E-Court No. 1**

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

**Original Application No. 88 of 2018**

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

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

Ex Nk Surendra Singh  
S/o Late Bikram Singh  
R/o Village and Post – Sega Jagatpur, Tehsil – Siyana,  
District – Bulandshahar – 245407 (UP)

.... **Applicant**

Ld. Counsel for the Applicant : **Shri A.K. Singh &**  
**Shri Yashpal Singh**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi-110011.
2. Chief of Army Staff, Integrated Headquarters, Ministry of Defence (Army), New Delhi.
3. Office Incharge, ASC Records, Bangalore.
4. C.O. 27 ASC (Supply) Type-F, Ambala Cantt.
5. Command Hospital, Chandigarh.
6. PCDA (P) Allahabad.

... **Respondents**

Ld. Counsel for the Respondents : **Shri Amit Jaiswal**,  
Central Govt Counsel

**ORDER (Oral)**

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

- “(a) Issue/pass an order or direction to quash/set aside the impugned discharge certificate (Annexure A-1) for illegally discharging the applicant on medical ground – Alcohol Dependence Syndrome w.e.f. 24 Aug 2002.
- (b) Issue/pass an order or direction to quash/set aside the discharge order and reinstate the applicant with all consequential benefits.
- (c) Issue/pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.
- (d) Allow the application with cost.”

2. Brief facts of the case are that the applicant was enrolled in the Indian Army on 09.02.1991. The applicant was found many times in intoxicated state and was admitted in Psychiatric ward of Military Hospitals of Bangalore, Ambala Cantt and Chandigarh. He was proposed to be invalided out of service in low medical category S5 in accordance with Army Order 3/89 and AO 3/2001/DGMS for his Psychiatric disability of Alcohol Dependence Syndrome (ADS). Accordingly, applicant was brought before a duly constituted Invaliding Medical Board (IMB) and was invalided out of service w.e.f.

24.05.2002 under Rule 13 (3) III (iii) of Army Rules, 1954. Thereafter, applicant approached to various Hon'ble High Courts and Regional Benches of AFT but no relief was granted to him. Being aggrieved, the applicant has filed the present Original Application.

3. Learned counsel for the applicant pleaded that applicant was enrolled in the Army on 09.02.1991. The applicant while posted with 56 Coy ASC (Supply), Bangalore made a complaint about Subedar Major of the unit for his malpractice to the Commanding Officer who expressed his displeasure and raised Form 10 for Psychiatric examination of the applicant at Command Hospital Bangalore in July 2000 but nothing abnormal was detected by the Psychiatrist at Command Hospital, Bangalore. Thereafter, Commanding Officer raised another Form 10 on 03.01.2001 and applicant's medical board was held on 14.02.2001 in which he was downgraded to S3 (T-24). Thereafter, applicant was posted out to Ambala Cantt and his category medical board was carried out and applicant's medical category was assessed as S3 (T-24+24). The applicant was sent to Command Hospital, Chandigarh for periodical medical review in Feb. 2002 where Lt Col P.K. Pardal, Classified Specialist (Psychiatry) opined that keeping in view the remarks in AFMSF-10, the applicant

will have to be invalidated out of service as per AO 3/2001/DGMS in low medical category S-5.

4. Learned counsel for the applicant also pleaded that applicant after discharge from service in the year 2002, pursued his case in the Hon'ble High Court Allahabad from 2002 to 2005, in Punjab & Haryana High Court from 2005 to 2009, in AFT Delhi from 2011 to 2012, in AFT Chandigarh in the year 2013 and AFT Delhi from 2014 to 09.02.2017 but no relief has been granted to him. He also pleaded that opinion of the Classified Specialist, Psychiatrist is biased/ influenced by the remarks of CO in Form 10 that applicant should not to be retained in service at any cost. The applicant has been punished for intoxication only twice in his entire service career of 11 years and 3 months and thus his discharge from service for Alcohol Dependence Syndrome is biased, irrational and unjustified. The so called ADS is not a mental illness in term of Sec 3 of Mental Health Care Act, 2017 and therefore, discharge order on allegation of ADS as mental illness is wholly illegal and hence, the discharge order is liable to be set aside and applicant be reinstated in to service with all consequential benefits.

5. Learned counsel for the respondents submitted that applicant while posted with 56 Coy ASC (Supply) was awarded punishment of

'Severe Reprimand' twice for an offence of 'Intoxication' under Section 48 of Army Act, 1950 on 10.11.1998 and 03.04.2000. The applicant was placed in low medical category S3 (Temporary) w.e.f. 14.02.2001 for "Alcohol Dependence Syndrome" (ADS). On review, he was placed in medical category S3 (T-24) on 31.07.2001. The applicant was admitted in various military hospitals for his disability ADS. He was admitted in MH Ambala on 16.04.2002 and on review he was placed in medical category S-5 on 26.04.2002 and was recommended to be invalided out of service as per Army Order 3/89. Accordingly, applicant was brought before a duly constituted Invaliding Medical Board (IMB) and was invalided out of service w.e.f. 24.05.2002 under Rule 13 (3) III (iii) of Army Rules, 1954. His disability was assessed by IMB @ 11-14% and the disability was regarded as NANA as the disability was self inflicted being ADS.

6. Learned counsel for the respondents further submitted that disability pension claim of the applicant was rejected by PCDA (P) Allahabad being disability ADS was assessed below 20% and NANA, hence, under the provisions of Para 173 of Pension Regulations for the Army, 1961, applicant was not granted disability pension. However, he was granted service element @ Rs. 1275/- per month w.e.f. 24.05.2002 vide PPO dated 26.08.2003 which has been revised

from time to time. The appeal dated 31.12.2003 preferred by the applicant against rejection of his disability claim was forwarded to IHQ of MoD (Army), PS Directorate which was rejected vide order dated 08.06.2005. Before this, applicant filed Civil Writ Petition No. 25393/2002 before the Hon'ble Allahabad High Court for reinstatement into service which was dismissed on 03.02.2005 for lack of jurisdiction. Thereafter, CWP No. 5321/2005 was filed for grant of disability pension before the Hon'ble Punjab and Haryana High Court, Chandigarh which was dismissed on 26.03.2009 as withdrawn by the applicant. Thereafter, applicant filed OA No. 241/2011 before the AFT (PB) New Delhi for reinstatement into service which was dismissed vide order dated 03.09.2012. Thereafter, applicant filed OA No. 1796/2013 for grant of disability pension before AFT (RB) Chandigarh which was disposed off for want of medical board proceedings on 03.12.2013. The applicant again filed OA No. 570 of 2014 before the AFT (PB) New Delhi for grant of disability pension, broad banding, Ex-gratia and for allotment of LPG Agency which was dismissed as withdrawn. Hence, the relief sought by the applicant has become *res judicata* and keeping in view the judgments passed by the aforesaid Courts/Tribunals, the present Original Application is liable to be dismissed being infructuous and on territorial jurisdiction

ground. The applicant has been invalided out of service on the recommendations of IMB in low medical category S5 for his psychiatric disability of ADS and thus, he is ineligible for reinstatement into service.

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

8. We find that applicant was placed in low medical category S5 due to Alcohol Dependency Syndrome on the recommendation of Invaliding Medical Board and was recommended to be invalided out from service for his psychiatric disability of ADS by a Classified Specialist (Psychiatry) which was confirmed/approved by the higher authorities. Accordingly, he was invalided out from service in low medical category S5 in accordance with Rules 13 (3) III (iii) of Army Rules, 1954 on having been found medically unfit for further retention in service due to his psychiatric disability of ADS.

9. We also find that medical proceedings were carried out in terms of Army Order 3/89 and AO 3/2001/DGMS and guidelines issued on the subject that all cases of alcohol dependence suffering a recurrence will be invalided out of service. Therefore, there seems no illegality, illogicality or personal enmity of Commanding

