

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

**ORIGINAL APPLICATION No. 430 of 2019**

Tuesday, this the 05<sup>th</sup> day of October, 2021

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

Deep Chandra, No. 4183194X Sep GD, son of Mohan Chandra, R/O House No 58, Shiv Mandir Colony, Bhartaul, Post PAC Kakatiya, Bareilly, Uttar Pradesh, Presently posted at 242 DSC Pl at to 23 (I) R&O Flt.

..... Applicant

Ld. Counsel for the : **Shri Devansh Bhardwaj**, Advocate.  
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence, New Delhi.
2. Ministry of Defence, Union of India.
3. Director General/Deputy Director General, DSC, GS Branch, IHQ of MoD (Army).
4. Commanding Officer, 23 (I) Recce & Obsn Flt, PIN-925423, C/O 56 APO.

.....Respondents

Ld. Counsel for the  
Respondents.

**Shri Yogesh Kesarwani**,  
Central Govt. Standing Counsel

**ORDER**

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

(a) To quash the impugned order by means of which the applicant has been discharged from his services on medical ground.

(b) Issue directions to the opposite party(s) directing them to allow him to serve at least for a period in accordance to the terms of his employment.

(c) Issuing/passing of any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

(d) Allowing this Application with cost.

2. Brief facts of the case are that applicant was enrolled in Indian Army on 17.08.1988 and took premature discharge on 31.03.2009 and is in receipt of service pension. He was re-enrolled in Defence Security Corps (DSC) on 25.02.2012. During the course of service, on 22.01.2015 applicant was diagnosed with Hypertension, Dyslipidemia and Obesity and was placed in permanent low medical category S1H1A1P2E1 w.e.f. 08.07.2015. Therefore, on being placed in permanent low medical category, he was issued a Show Cause Notice dated 11.04.2019 and on receipt of reply dated 15.04.2019, which being found insufficient, he was discharged from service w.e.f. 31.08.2019 (AN) in terms of policy letter dated

01.12.2018 under the provisions of Rule 13 (3) III (iii) (a) (i) of Army Rules, 1954.

3. Submission of learned counsel for the applicant is that at the time of joining DSC service in the year 2012 there was no provision with regard to discharge of personnel being placed in low medical category and this policy came into existence in the year 2018, therefore, he should be allowed to serve in DSC up to the completion of terms of engagements. Further submission of learned counsel for the applicant is that despite being placed in low medical category, applicant was able to discharge his duties efficiently, therefore he should have been allowed to serve further rather than discharging him prior to completion of terms of engagement. He pleaded for setting aside of his discharge order and permit him to continue in service.

4. Per contra, respondents have pleaded that applicant was discharged from service on the strength of policy letter dated 01.12.2018 which stipulates that low medical category personnel should be discharged from service as there is no sheltered appointment available in DSC. His further submission is that since applicant was placed in permanent low medical category w.e.f. 08.07.2015, he was rightly discharged from service in accordance with policy letter dated 01.12.2018. Placing reliance on judgment dated 31.07.2018 passed by the

Hon'ble AFT Principal Bench, New Delhi in O.A. No. 1164 of 2018 in the case of **Sub Ramavtar Singh vs Union of India & Ors**, learned counsel for the respondents pleaded for dismissal of O.A.

5. We have heard learned counsel for the parties and perused the records.

6. A simple question that needs to be answered is that whether DSC personnel placed in low medical category can be discharged from service?

7. In this regard we find that applicant was placed in low medical category P2 (Permanent) w.e.f. 08.07.2015 and he was serving in low medical category since then. After issue of new policy dated 01.12.2018 i.e. ROI 06/2018, DSC personnel placed in low medical category (temporary or permanent) were made disqualified to continue in service. For convenience sake relevant extract of aforesaid policy is reproduced as under:-

"1. (a) Revised Medical Criteria

(i) & (ii) xx x x x x x x x

(iii) Permt LMC Pers-Permt LMC pers (irrespective of SHAPE factor) in DSC will be disch from service at any time during service in accordance with provisions of AR-13 (3) Item 1(ii) (a) (i) and 13 (3) Item III (a) (i) as no sheltered appt is available in DSC."

8. Thus, the aforesaid policy makes it clear that DSC personnel placed in low medical category either temporary or

permanent are liable to be discharged from service. The applicant was placed in low medical category w.e.f. 08.07.2015 and has served in DSC till the policy was not existed. He was discharged from service on implementation of new policy on the subject.

9. A conspectus of above observation is that applicant was rightly discharged from service being placed in low medical category in terms of issuance of new policy on the subject and respondents have not committed any error in discharging him.

10. In view of the above, O.A. is devoid of merit and is accordingly **dismissed**.

11. No order as to costs.

12. Pending miscellaneous applications, if any, shall stand disposed off.

**(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)**  
**Member (A) Member (J)**

Dated: 05.10.2021  
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