

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****Original Application No. 222 of 2021**Wednesday, this the 06th day of October, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

No. 14925103-W Ex. Hav. Navin Kumar Singh, S/o Late Shri Nagendra Singh, R/o : VPO – Birno, Tehsil – Ghazipur, District Ghazipur-233300 (Uttar Pradesh).

.... ApplicantLd. Counsel for the: **Shri Pankaj Kumar Shukla**, Advocate.
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence (Army), South Block, New Delhi.
2. Chief of Army Staff, Integrated Headquarters, Ministry of Defence, South Block-III, New Delhi-110011.
3. O IC Records, The Mech. Inf. Regiment, PIN-900476, C/o 56 APO.
4. PCDA (Pension), Draupadi Ghat, Allahabad (UP)-211014.

... RespondentsLd. Counsel for the: **Ms. Preeti Mala**, Advocate
Respondents. Central Govt Counsel.**ORDER****“Per Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

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) *To quash or set aside the Respondents letter dated 25.04.2014 (Annexure A-1 of OA).*
- (B) *To issue order or directions to the respondents to grant disability pension to the applicant for the disability he had, with effect from 01.03.2014 (Date of discharge : 28.02.2014) with all consequential benefits including rounding off benefit from 20% to 50% in terms of Govt of India letter dated 31 Jan 2001 and Judgment passed by Hon'ble Apex Court in case of Ram Avatar Vs UoI & Others.*
- (C) *Any other relief as considered proper by the Hon'ble Tribunal be awarded in favour of the applicant.*

2. Briefly stated, applicant was enrolled in the Indian Army on 12.11.1997 and was discharged from service on 28.02.2014 (AN) in Low Medical Category on completion of terms of engagement under Rule 13 (3) Item III (iii) (a) (i) of the Army Rules, 1954. At the time of discharge from service, the Release Medical Board (RMB) held at Military Hospital, Babina on 04.11.2013 assessed his disability '**SEVERE PANCREATITIS (ALCOHOL INDUCED)**' @ 20% for life and opined the disability to be neither attributable to nor aggravated (NANA) by service. The applicant's claim for grant of disability element of disability pension was rejected vide letter dated 25.04.2014. The applicant preferred Petition which too was rejected by the respondents vide letter dated 14.01.2015. The applicant preferred Appeal dated 29.06.2020 which too was rejected by the respondents vide letter dated 17.08.2020. 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 disease of the applicant was contracted during the service, hence it is attributable to and aggravated by Military Service. Ld. Counsel for the respondents has relied upon the Judgment dated 15.10.2015 passed by this Tribunal in Original Application No. 231 of 2014, **Gunner (Washerman) No.15151610W Basant Kumar Singh Versus The Union of India and Others**. 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 element of 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 disability of the applicant has been regarded as NANA by the RMB, therefore, condition for grant of disability element of pension does not fulfil in terms of para 53 of Pension Regulations for the Army, 2008 (Part-I) and, therefore, the competent authority has rightly denied the benefit of disability element of 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 RMB proceedings as well as the records. The sole question which needs to be answered by us is whether the disability of the applicant i.e. '**SEVERE PANCREATITIS (ALCOHOL INDUCED)**' is 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 severe pancreatitis (alcohol induced) is primarily a disease where an individual cannot control his excessive drinking habits. This disease leads 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 military doctors and the organization to help a soldier who has become a victim of alcohol induced disease and only when all efforts fail the soldier is discharged from service on ground of said disease.

8. As far as attributability of the of disability is concerned, we agree with the opinion of the RMB that this disease is neither attributable to nor aggravated by military service.

9. The judgment dated 15.10.2015 passed by this Tribunal in Original Application No. 231 of 2014 in **Gunner (Washerman) Service No. 15151610W Basant Kumar Singh** (Supra) has no

application in the instant Original Application as in that case discharge order of the applicant, which was on the ground of intoxication, was set aside.

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 RMB that the disease of the applicant was neither attributable to nor aggravated by military service. Thus considering that due process has been followed by Army in discharging 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 222 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: 06 October, 2021

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