

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 454 of 2022**

Thursday, this the 06<sup>th</sup> day of October, 2022

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

Narpat Singh (JC-699509K Ex Sub) S/o Shri Ranjeet Singh,  
R/o Village and post-Mamroda, Tehsil-Didwana, District-  
Nagaur Rajasthan, Pin-341305.

Learned counsel for: **Shri Rajeev Srivastava**, Advocate  
the Applicant

Versus

1. Union of India, Ministry of Defence through its Secretary,  
Central Secretariat, New Delhi-110001.
2. The Director General of Medical Services (Army),  
Adjutant General Branch, Integrated HQ of MoD (Army),  
'L' Block, New Delhi-110001.
3. The Army Medical Corps Records Office, C/o 56 APO, Pin-  
900450.
4. Principal Controller of Defence Accounts (Pension),  
Draupadi Ghat, Allahabad-211014.

.....Respondents

Learned counsel for the :**Shri Manu Kumar Srivastava**, 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:-

*(i) That Hon'ble Tribunal may kindly be pleased to quash the order dated 09.12.2021 passed by Opposite party No 3 contained as annexure No 1 to this original application.*

*(ii) Direct the respondents to hold the RMB of the petitioner and assessed the disability of obesity and primary hypertension with effect from the date of retirement.*

*(iii) Direct the respondents to process the claim of the petitioner in respect of disability of obesity and primary hypertension w.e.f. 30.06.2019 along with arrears with an interest @ 18% as expeditiously as possible.*

*(iv) Any other relief which the Hon'ble Tribunal may deem just, fit and proper in the circumstances of the case may also graciously to be granted to the applicant.*

2. The relevant facts in nutshell are that the applicant was enrolled in the Army on 24.01.1989 and he was discharged from service on 01.07.2019 (AN) in medical category SHAPE-I on completion of extended service limit under Rule 13 (3) I (i) of Army Rules, 1954 after rendering 30 years and 07 days service. During the course of his service he was promoted to the rank of Subedar. As per applicant he was suffering from 'Obesity' and 'Primary Hypertension' w.e.f. February, 2019 but due to unforeseen circumstances his RMB could not be carried out. In regard to this after discharge from service he submitted an appeal dated 16.04.2021 which when not decided, he filed O.A. No. 687 of 2021 in which an order was passed on 09.11.2021 directing the respondents to decide his appeal by speaking and reasoned order within a period of four months.

On 09.12.2021 the respondents passed reasoned and speaking order mentioning therein that the individual has himself claimed in AFMSF-18 dated 12.10.2020 at the time of Release Medical Examination (RME) that he had no illness and that he will not claim any disability due to service. In this regard a statement of case was also processed for post discharge claim (PDC) but it was turned down by DGAFMS vide letter dated 02.02.2021 intimating that PDC is not applicable in this case as the disability was already existing prior to discharge of the applicant.

3. Heard Shri Rajeev Srivastava, learned counsel for the applicant and Shri Manu Kumar Srivastava, learned counsel for the respondents and perused the record.

4. It is undisputed fact of the parties that the applicant was enrolled in the Army Medical Corps (AMC) on 24.01.1989 and he was discharged from service on 30.06.2019. While in service he was detected to be suffering from 'Obesity' and 'Primary Hypertension' w.e.f. February, 2019 and he underwent treatment at 166 Military Hospital. Due to unforeseen circumstances his Release Medical Board (RMB) was not conducted and he was released in SHAPE-I medical category, but the fact is that he was suffering from the aforesaid disabilities/diseases while in service.

5. During the course of hearing, learned counsel for the respondents admitted that the applicant was suffering from 'Obesity' and 'Primary Hypertension' while in service and a

statement of case for processing PDC was submitted to DGAFMS which was later turned down vide letter dated 02.02.2021 (Annexure R-12).

6. Be that as it may, being suffering from two disabilities the applicant's Release Medical Board (RMB) should have been conducted prior to his discharge from service for assessment of his medical disability which in fact has not been carried out.

7. In view of the above, respondents are directed to carry out his RMB within a period of three months from today.

8. The O.A. is partly allowed.

9. No order as to costs.

10. Miscellaneous applications, pending if any, stand disposed of.

**(Vice Admiral Abhay Raghunath Karve)**  
**Member (A)**

**(Justice Umesh Chandra Srivastava)**  
**Member (J)**

Dated: 06.10.2022

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