

**BEFORE THE ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW.**

Court No - 3

ORIGINAL APPLICTION NO. 241 of 2013

Thursday, this the 03rd September, 2015

**“Hon’ble Mr. Justice D.P. Singh, Member (J)
Hon’ble Air Marshal Anil Chopra, Member (A)”**

**Service No. 942686 N Ex. LAC Arvind Maurya, Trade OPS ASST
son of Shri Ram Shankar resident of H-178, Satyam Vihar Awasthi
No. 1, Kalyanpur District : Kanpur PIN - 208017**

.....Applicant

Ld, Counsel for the Applicant : **Shri V.P. Pandey, Advocate**

Versus

1. Union of India, through the Secretary, Ministry of Defence,
New Delhi
2. The Chief of Air Staff Air Head Quarter, Vayu Sena Bhawan,
New Delhi.
3. The Station Commander 15F B S U Air force Station C/O 99 APO
4. Officer in Charge, Air Force Record Office Subroto Park
New Delhi.
5. Commandant INHS DHANVANTARI C/O 99 APO

....Respondents

Ld. Counsel for
the Respondents

: Shri A.K. Singh Central Govt Counsel
Assisted by Wing Cdr S.K. Pandey,
Departmental Representative for the
Respondents.

Order
(Passed in Court)

1. Heard Shri V.P. Pandey, Ld. Counsels for the applicant and Shri A.K. Singh, Ld. Counsel for the Respondents assisted by Wg Cdr, S.K. Pandey.

2. This application under Section 14 of the Armed Forces Tribunal Act has been filed by the applicant being aggrieved by the discharge order passed on account of medical invalidation. In brief the applicant was inrolled in Indian Army under medical category AYE. On 14.02.2010. The applicant was admitted for At Bangalore and transferred to CHS, Bangalore. On 6.02.2010, he was transferred to sycretic department. Since it was found that he was suffering by depression medical Bangalore. During the course of hospitalization the applicant was placed under observation for disorder. He was discharged on 21.02,=.2010 and placed under Low Medical Category. Again he was admitted in hospital on 24.02.2010 and refered to CHS Balgalore for review. After review sycratic A4G1 vide opinion dated 22.05.2007. On 13.07.2012 the applicant was diagnosed of his sycratic disease namely And transferred to CHS Bangalore for treatment by sycratic. He was diagnosed a case ofIt appears that disease Thereafter he was recommended to invalided out of service. In view of recommendations of invalided medical board, he was discharged from Air Force. Further it was found that the disability was due to tough Air Force service conditions and aggravated due to service conditions. Vide para 54 of the Counter Affidavit, he has been recommended for military pension. Percentage was shown as 40% for life.

Invalid medical board was approved by Air Headquarters on 23 May.

Feeling aggrieved, the applicant has preferred this Original Application.

3. Submission of the Ld. Counsel for the Applicant is that after taking medicine the condition of the applicant is improving. Argument advanced does not seem the case for interference. Nothing has been brought on record which shows that the applicant was having any disease prior to joining the air force service. It is admitted fact that the applicant is suffering from disease in question. Once, Medical disability is admitted fact by the litigation then it is not for judicial reviews. Accordingly the disease taken place while the applicant was in service. Power of judicial review of Tribunal is to decision making process and not process decision.

Procedure adopted by the authorities while discharging the applicant does not seem illegal. There is no procedural defect in the impugned order.

4. Ld Counsel for the Respondents also submitted that the discharge of the applicant on account of medical invalidment is strictly in accordance with the rules keeping the opinion of the expert of medical board. Ld. Counsel for the Respondent duly assisted by Wg Cdr S.K. Pandey, Departmental Representative for the Respondents submitted that since the disease is aggravated by Air Force Service, recommendation has been made for payment of disability pension. It is appropriate to reproduce para 9 of the Counter Affidavit:-.....

From the available contents in para 9 of the Counter Affidavit, it appears that the respondents took decision for grant of disability pension 40% for life. It has been approved from the Air headquarters..... Accordingly Air

Force warrior in pursuance of decision has been taken keeping factual matrices on record.

5. In view of the above, present original application has no force being lacks of merit. We mould to finalise to grant of disability pension.

6. In view of Para 9 of the Counter Affidavit and in accordance with rules we direct the respondents to grant disability pension with arrears and all consequential benefits to the applicant within two months from the date of issue of this order.

7. With the aforesaid orders we dispose of the original application.

8. No order as to cost.

(Air Marshal Anil Chopra)
Member (A)

ukt/-

(Justice D.P Singh)
Member (J)