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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 14516/2024**

UNION OF INDIA & ORS.Petitioners

Through: Mr. Farman Ali, CGSC with
Major Anish Muralidhar, Army

versus

IC 34187K COL RAJNEE KANT VERMARespondent

Through: Mr. Shakti Chand Jaidwal, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% **19.11.2025**

C. HARI SHANKAR, J.

1. This writ petition assails judgment dated 23 November 2023 passed by the Armed Forces Tribunal¹, Principal Bench, New Delhi in OA No. 1905/2020², whereby the Tribunal has directed thus:

“9. In view of the above, the OA 1905/2020 is allowed and we direct the respondents to conduct RSMB of the applicant within a period of two months from the date of this order so as to re-assess the disabilities of CAD, Diabetes Mellitus Type-II and Hypothyroidism and the percentage of the same in terms of Para 8 (a) of the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008 and the decision of the RSMB be communicated to the applicant accordingly.”

2. The respondent was commissioned in the Indian Army on 15 December 1976. He superannuated on 31 December 2009, in SHAPE-

¹ “the Tribunal” hereinafter

² Col Rajnee Kant Verma (Retd.) v UOI



1 medical category. On the very next day i.e. 1 January 2010, he was re-employed in the Army. His period of re-employment ended and he was released from re-employment 22 December 2013. The release was, however, in the low medical category P3 as, during his period of re-employment, he was found to have contracted Coronary Artery Disease (Double Vessel Disease), which was cited in the medical records as CAD (DVD) OPTD ICD No.1.24.9. A Re-categorization Medical Board³ was convened/held on 18 December, 2013. The Re-categorization Board approved the re-categorization of the respondent in the category of S1H1A1P4(T-08) E1 reporting his disability to be ‘CAD (DVD) OPTD ICD No.1.24.9.’

3. The RMB report specifically notes the date of origin of the CAD, from which the respondent was suffering, as 26 September 2013. It is an acknowledged position, therefore, that onset of the CAD was close to the end of the respondent’s re-employment tenure.

4. The RMB certificate fixes the next date of re-categorization of the respondent’s medical status as 18 December 2015.

5. Mr. Farman Ali, learned CGSC appearing for the petitioners, submits that the respondent did not turn up for the said re-categorization.

6. Though, we were initially of the opinion that this factum would be some importance, as subsequent arguments have disclosed, nothing much turns on this fact.

³ “RMB” hereinafter



7. Mr. Shakti Jaidwal, learned Counsel for the respondent has drawn our attention to Army Order 3/89⁴, titled ‘Medical Examination of All Ranks Prior To Release, Retirement, Discharge, Completion of Tenure or Service Limit’. Clauses 1, 2, 6 and 7 of this Army Order are of relevance and are reproduced thus:

“1. All ranks are required to be medically examined by a medical officer prior release, retirement, discharge, completion of tenure or service limit or release/discharge at their own request vide paras 391(a) and 418 (e) of RMSAF, 1983. Such medical examination will be conducted by the authorized medical attendant (RMO/Staff Surgeon) and the report will be recorded on the form AFMSF-18 in quadruplicate. The OC unit will ensure that the individual is medically examined by the medical officer or brought before a medical board prior to release. If an individual is proceeding on LPR this may be conducted before he proceeds on such leave. The individuals who are in SHAPE-1/Category 'A' will be required to undergo only a Release Medical Examination whereas those who are in low medical category will undergo a Release Medical Board.

2. In the event of the individual being in low medical category or any disability being found, or claimed by the individual at the time of release, he will be brought before a Medical Board well in time so that the board proceedings are completed prior to his release from service) In such cases individual should be sent to his Authorised Medical Attendant well before his discharge/proceeding to Depot Battalion, who will arrange for the Medical Board at the nearest service Hospital. A Release Medical Board can be held in advance by six months to the date of release from service. The proceedings of the medical board will be recorded on form AFMSF-16 in addition to Release Medical Examination report (AFMSF-18) quintuplicate. The medical board will also render a certificate in the prescribed proforma to be attached with the AFMSF-16 (for those released in low medical category), in making an annotation about the individual's longevity, which will be accepted by competent authority for the purpose of commutation of pension. In order to help in the proper assessment of the award of attributability/aggravation in connection with the consideration of disability/family pension claims. AFMSF-81 will also, be initiated by the hospital in quintuplicate at the time of Release Medical Board of low medical category personnel and sent

⁴ “Army Order” hereinafter



to OC Unit for completion and return.

6. Release Medical Board should be carried out as expeditiously as possible. The individual should not be kept in the hospital for long periods which may result in his retention in service beyond the scheduled date, which is objectionable from the audit point of view. To avoid all such embarrassing situations, the OSC Unit must ensure that the individuals in low medical category are referred to the hospital for holding release medical board at least six months prior to due date of release/retirement. In no case, the Release Medical Board will be held after the date release/retirement. A special sanction vide Govt of India, Ministry of Defence letter No 10 (1) /87/D/Pen-C dated 13 Nov 87) (Reproduced as an annexure to this Ao will be required to hold a release of Medical Examination/Medical Board if it has not been held prior to release/ discharge due to unavoidable circumstances.

7. These orders equally apply to the following categories of officers:-

- a. Those who voluntarily retire or are released at their own request on compassionate or personal reasons.
- b. Called upon to retire or resign under Army Rule 14 or 15.
- c. Whose services are terminated due unsatisfactory performance during probationary period or on the grounds that their services are no longer required. to
- d. Being released from re-employment on completion of their engagements.
- e. Who are in reserve list and are released from recalled service.)”

8. Also, of relevance, in the facts of this case, is Para 8 (a) of Entitlement Rules for Causality Pensionary Awards to the Armed Forces Personnel, 2008⁵, which is an appendix to Army Pension Regulations 2008⁶, reads thus;

"8. Post discharge claims:-

⁵ "Entitlement Rules" hereinafter

⁶ "Pension Regulations" hereinafter



(a) Cases in which a disease was not present at the time of the member's retirement/discharge from service but arose within 7 years thereafter, may be recognized as attributable to service if it can be established by the competent medical authority that the disability is a delayed manifestation of a pathological process set in motion by service conditions obtaining prior to discharge."

9. The period of seven years, post discharge of the respondent from service was computed, by the respondent, as commencing from 2013, when his period of re-employment came to an end. Computed from that date, the period of seven years would come to an end in 2020.

10. On 30 June, 2014, i.e., just over six months from the date of the end of his re-employment tenure, the respondent wrote to the petitioners, seeking that a RMB be held to assess his medical status post release from re-employment service. Though this document is not on record, what we have on record is the response from the petitioners to the respondent dated 31 July, 2014, which reads as under:

"Telephone: 26172588

ADG Manpower (P&P)/MP 6(C)
Integrated HQ of MOD Army
Adjutant General's Branch
West Block -III, RK Puram
New Delhi-110066

31 Jul 2014

13102/IC-34187K/Sigs/MP6(c)

HQ MG&G AREA
PIN-900497
c/o 56 APO

**RELEASE MEDICAL BORARD IN RESPECT OF IC-
34187K COL (RETD)RAJNEE KANT VERMA ON
RELEASE FROM RE-EMPLOYMENT SERVICE**



1. Reference letter No RKV/Pers/06 dt 30 Jun 2014 received from Col (Retd) Rajnee Kant Verma (Copy enclosed).
2. You are requested to fwd a detailed Statement of Case for obtaining sanction of the competent authority for holding RMB post release from re-employment service in respect of above mentioned officer.

(Manmohan Mangain)
Dy Director, MP 6(C)
for AG

Encls: (as above)

Copy to:-

Col (Retd) RK Verma
General Manager (Trg & Rect)
GF-6 to 9 Amaan Towers,
Suvas Colony, Fatehgunj (Main Road)
Vadodara-390002, Gujarat”

11. In compliance with the directions contained in the aforesaid letter dated 31 July 2014, the respondent submitted a detailed Statement of Case on 8 August, 2014. Despite this, no RMB was held, which reads as under:

“From
Col R K Verma (RETD)
GF-6 to 9, Amaan Towers,
Suvas Colony, Fatehganj (Main Road),
Vadodra (Baroda)-390002, Gujrat
RKV/Med/2014/1

To

COL A,
HQ MG & G Area,
Colaba, Mumbai, PIN – 400005

**RELEASE MEDICAL BORARD IN RESPECT OF IC-
34187K COL RAJNEE KANT VERMA ON RELEASE
FROM RE-EMPLOYMENT SERVICE**

1. Kindly refer letter No 13102/IC-34187K/Sigs/MP6(C)



dated 31 Jul 2014 (copy att) and my letter No RKV/Pers/06 dt 30 Jun 2014 (copy att).

2. The above named officer has retired from the active service wef 31 Dec 2009. At the time of retirement RMB (Release Medical Board) was done and the officer was graded SHAPE - ONE. There after the officer got Re Employment with Army. After completing full Four Years of re-employment the officer was to be released on 22 Dec 2013. In the mean time on 26 Sep 2013 the officer got admitted in INS Aswini, and on 17 Oct 2013 the officer had to undergo Open Heart Surgery. After sick leave the officer was finally discharged on 18 Dec 2013 and Medical board declared his Medical Category as SHAPE-3X, P3(Pmt). However the Medical Board proceeding duly perused by various authority have been received only on 15 Jun 2014. That is why release medical board at the time of release from Army after Re-Employment could not be carried out.

3. I had written a letter for Ex - Post sanction for Release Medical Board vide my letter given in reference, to which they have asked to fwd a detailed Statement of Case vide their letter given in reference. Hence I am forwarding a S of C draft for your necessary action please.

4. In view of above it is requested that a detailed S of C be forwarded to AG MP(6C) for Ex - Post Facto Sanction to held Release Medical Board at MH Baroda where I am staying since I am serving with a private Firm.

2. An early action is requested.

Encls:- As above

Date: 08 Aug 2014

(RK Verma)
Col (Retd)"

12. On 16 August, 2020, the respondent addressed a communication to the petitioners, seeking that Re-Assessment Medical Board⁷ be conducted in order to assess his entitlement to disability pension, which would depend on whether the CAD, from which the petitioner was found to suffer 2013 onwards, was

⁷ "RAMB" hereinafter



attributable to or aggravated by, the military service which the respondent had undergone.

13. The aforesaid request dated 16 August 2020 of the respondent was rejected by the petitioners *vide* the following communication dated 29 September 2020:

“Tele: 26195669

Addl Dte Gen of Manpower
(Policy & Planning)/MP 5(b)
Adjutant General's Branch
Integrated HQ of MoD (Army)
Wing No 3, Ground Floor
West Block-III, RK Puram
New Delhi-110066

12681/IC-34187/T-7/MP-5(b)

29 Sep 2020

Col Rajnee Kant Verma (Retd)
#288, Raghunath Vihar
AWHO Society, Sector-14
Kharghar, Mumbai-410210

**APPEAL FOR CONDUCTING POST RETIREMENT
MEDICAL BOARD IC-34187K COL RAJNEE KANT
VERMA (RETD)**

1. Please refer to your petition at 16 Aug 2020

2. As per records, you were commissioned in the Army on 15 Dec 1976 and retired from Army service wef 31 Dec 2009 (AN) on reaching the age of superannuation in medical category SHAPE-I vide AFMSF-18 dt 31 Dec 2009. You were re-emp on 31 Jan 2010 and finally released from re-emp on 22 Dec 2013. As per AFMSF-15 dt 18 Mar 2014, you were downgraded to med cat P3 (Permt) for disability "CAD (DVD) OPTD ICD NO 1.24.9.

3. As per Para 72 (iii) of Pension Regulation of Army 2008, disability pension to a re-emp officer granted only when his service is terminated on account of disability attributable to, or aggravated by military service. Since your re-emp service was not terminated on account of the said disabilities. It is regret to inform that you are



not eligible for disability pension due to policy constraints.

4. Henceforth all e-PPOs to be issued by PCDA (P) Allahabad will be uploaded in our official website RODRA (www.rodra.gov.in), therefore it is requested to kindly register yourself on RODA website for obtaining e-PPO as well as speedy redressal of grievances.

5. All ranks of the Army convey their greetings and best wishes to you and your family.

(Balwan Singh)
Maj
DAAG MP 5 (B)
for AG”

14. The respondent, in these circumstances, approached the Tribunal by way of OA. 1905/2020.

15. The Tribunal has, by its order dated 23 November 2023, directed a Re-Survey Medical Board⁸ of the respondent to be conducted.

16. Aggrieved by the aforesaid order of the Tribunal, the UOI has filed the present writ petition.

17. We have heard Mr. Farman Ali, learned CGSC for the petitioners and Mr. Shakti Chand Jaidwal, learned Counsel for the respondent at length.

18. Mr. Farman Ali, points out that the respondent had sought only an RAMB and not RSMB or PDMB⁹.

⁸ “RSMB” hereinafter

⁹ Post Discharge Medical Board



19. Though arguments took considerable time, we are of the opinion that the dispute is capable of being resolved by reference to basic provisions already cited.

20. Mr. Farman Ali places reliance on Regulation 72(iii) of the Army Pension Regulations, which read thus:

“72. Following categories of ex-Army personnel are not eligible for grant of disability pension or special family pension and therefore claims in respect of such personnel should not be processed for adjudication of entitlement.

(iii) Officers who retire from Army service on completion of age limit in medical Category SHAPE-1 and are re-employed in Army and are found to be in low medical category during such re-employment unless the re-employment is terminated on account of disability.”

21. As we have noted, the Tribunal has allowed the respondent’s claim, essentially relying on Rule 8 (a) of the Entitlement Rules. It is not in dispute that the Entitlement Rules constitute an appendix to the Pension Regulations.

22. Mr. Farman Ali’s reliance on Regulation 72 (iii) of the Pension Regulations, to our mind is misplaced. Regulation 72 (iii) states that the officers who retire from army service on completion of age limit in SHAPE-I medical category and are re-employed in Army and are found to be in low medical category during re-employment would not be entitled for disability pension unless re-employment is terminated on ground of disability.



23. The respondent may not be able to claim disability pension under Regulation 72. However, to our mind, Rule 8 (a) of the Entitlement Rules, which is also an appendix to the Pension Regulations, engrafts *an independent right* to a person who is discharged from service and who contracts a disease or a disability within seven years of discharge, which is attributable to service, to post-discharge disability pension. We, therefore, find no error in the approach of the Tribunal in directing the constitution of a fresh Medical Board on the basis of Rule 8 (a) of the Entitlement Rules.

24. That apart, we also find substance in Mr. Jaidwal's reliance on Clauses 6 and 7 of the Army Order. Clause 6 specifically envisages expeditious conducting of Release Medical Board at least six months prior to the due date of release/retirement. Clause 7(d) of the Army Order applies this provision *mutatis mutandis* to persons who are released from re-employment on completion of their engagement.

25. As such, in case of all persons who are released for re-employment on completion of their engagement in re-employment, Clause 6 read with Clause 7(d) of the Army Order would require the Release Medical Board to be convened and conducted at least six months prior to the end of the re-employment period. This, admittedly, was not done.

26. Insofar as Clause 1 of the Army Order is concerned, Mr. Farman Ali places reliance on the concluding stipulation, in the said paragraph, that individuals who are in SHAPE-1 will be required to undergo only a Release Medical Examination whereas those who are



in low medical category will undergo a Release Medical Board.

27. This Clause, to our mind is of no application as it is not in dispute that before the respondent's re-employment term came to an end, the respondent had been placed in low medical category.

28. It was in these circumstances that the respondent had asked for conducting a RMB to examine his medical status shortly after the expiry of his period of re-employment, on 30 June 2014. The response dated 31 July 2014, of the petitioners, to the said request, extracted in para 10 *supra*, indicates that the petitioners were also of the view that the respondent was entitled to have an RMB conducted.

29. It was for that reason that the respondent was directed to submit a Statement of Case. The respondent dutifully submitted the Statement of Case dated 8 August 2014, which has also been reproduced hereinabove. Despite this, no RMB was held.

30. In these circumstances, we are left with no doubt that no appropriate Medical Board has been convened to examine the respondent, so that his entitlement to disability pension in terms of Rule 8 (a) of the Entitlement Rules could be assessed.

31. A closing remark. At the end of the day, we must realise that we are dealing with Armed Forces personnel. In the case of Armed Forces personnel, the Court has to adopt a purposive and expansive approach, keeping in mind the contribution that such persons render to the nation day in and day out. An unduly rigid or hyper-technical approach,



while interpreting the applicable Rules, Regulations or governmental instructions would be counter-productive to the avowed constitutional imperative of rendering all assistance that the nature can render, to persons who are willing to lay down their lives for the sake of the rest of us.

32. We also note that all that the Tribunal has done is to direct a RSMB to be conducted to assess the medical status of the respondent. We are not inclined to enter into whether the Medical Board should be an RMB, RAMB, RSMB or PDMB. Suffice it to state that the petitioners would be required to conduct a Medical Board essentially to assess the respondent's entitlement to disability pension in terms of Rule 8 (a) of the Entitlement Rules, as directed by the Tribunal.

33. We, therefore, clarify the order passed by the Tribunal to the aforesaid extent.

34. The writ petition is accordingly disposed of.

35. We also clarify that we have passed this order based on the facts of the present case before us and that the order would not apply as a precedent in cases which may not be similar on facts.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

NOVEMBER 19, 2025/rjd