

**ARMED FORCES TRIBUNAL CHANDIGARH REGIONAL BENCH AT
CHANDIMANDIR**

O.A. NO. 51 of 2010

Babu Ram ... **Applicant**

Vs

Union of India and others ... **Respondents**

ORDER

12-07-2010

Coram : **Justice Ghanshyam Prasad, Judicial Member.**

Lt Gen H.S. Panag(Retd), Administrative Member.

For the Petitioner(s) : Col(Retd) N.K. Ghai, Advocate.

For the respondent(s) : Mr. Sandeep Bansal, CGC.

Lt Gen H.S. Panag(Retd)

The petitioner Nb Sub Babu Ram was enrolled in the Army on 28 Oct 1983 and after training was posted to 5 JAKRIF. He was promoted to the rank of Nb Sub on 23 Apr 2008. The case of the petitioner is that he was approved for grant of two years extension beyond 26 years i.e. from 28 Oct 2009 to 27 Oct 2011. However, he was discharged from service w.e.f 31 Oct 2009 (AN) and not granted extension for which he was approved. The prayer of the applicant is that the order for his discharge should be quashed and he should be reinstated in service w.e.f. 31 Oct 2009 with consequential benefits including seniority and pay & allowances @ 12% interest and costs.

Heard the learned counsels for the appellant and the respondents.

The counsel for the appellant argued that the appellant gave his consent and was approved for two years extension of service beyond 26 years upto 28 years as entitled to a Nb Subs w.e.f 28 Oct 2009. He was a physically fit JCO and as per Annual Medical Examination done on 28 Mar 2008, he was found fully fit in Medical Category SHAPE-1. His weight was 73 Kgs for a height of 171 Cms. He was not given any advice or counseling to reduce his weight. In Feb 2009, during Periodic Medical Examination his weight was 84 Kgs and he was labeled 'Obese' and placed in Temporary Low Medical Category (T-24) for 24 weeks w.e.f 24 Feb 2009 and advised to reduce his weight. He worked hard to reduce his weight to 81 Kgs. However, during Review Medical Board held on 18 Aug 2008 he was again assessed as obese and was placed in Permanent Low Medical Category P2 (P). Consequently, he was not granted extension and was discharged from service being a Low Medical Category P2(P) and not granted extension of service.

The counsel for the respondents argued that during the Periodic Medical Examination, the weight of the individual was 84 Kgs which 20% more than the permissible weight of 66.5 Kg for his height. He was rightly placed in Temporary Low Medical Category P2(T24) by the Medical authorities and given 24 weeks to reduce his weight. During the Review Medical Board in Aug 2007, it was found that he had reduced only 3 Kg. He was thus appropriately placed in Permanent Low Medical Category P2(P). As per Para 2(b)(i) of Appx 'A' to Integrated Headquarters of Ministry of Defence (Army) letter No B/33098/AG/PS-2(C) dated 21 Sep 1998, if a personnel below officer rank (PBOR) is placed in Permanent Low Medical Category before commencement of his enhanced service

(extended period of service i.e. 2 yrs.) and is a case of non-battle casualty, he is required to be discharged from service on completion of his existing tenure of engagement/service in present rank. Accordingly, a discharge order was issued by Records JAKRIF on 14 Oct 2009 for his discharge w.e.f 31 Oct 2009. His Release Medical Board was held at MH Chennai on 31 Oct 2009 and his disability was assessed at 6-10% for life and nil for disability as Obesity is neither attributable nor aggravated by military service.

It is clear that Nb Sub Babu Ram was a Low Medical Category P2(P) as assessed by the Review Medical Board on 14 Aug 2009. His approved extension of two yrs was to begin from 28 Oct 2009. As per Integrated Headquarters of Ministry of Defence(Army) letter No B/33098/AG/PS-2(C) dated 21 Sep 1998 if a PBOR is placed in permanent Low Medical Category before extension of service begins and is not a battle casualty, he is required to be discharged from service on completion of his existing terms of engagement/service in present rank. Nb Sub Babu Ram was correctly discharged from service on 31 Oct 2009(AN) being a Permanent Low Medical Category P2(P). As per his Release Medical Board, his disability is 6-10% for life but not attributable/aggravated by military service.

Keeping in view the facts of the case, arguments of the learned counsels and the evidence on record, the application is dismissed.

(Justice Ghanshyam Prasad)

[Lt Gen H.S. Panag (Retd)]

12-07-2010

‘sns’