

**ARMED FORCES TRIBUNAL  
REGIONAL BENCH  
JABALPUR**

**CORAM :**

**HON'BLE MR JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN GOPAL R, MEMBER (A)**

**OA 40/2018**

**No 15695804F Ex Sigmn Vijay Singh Yadav,  
S/o Shri Babu Lal Yadav,  
R/o Near Khadi Ashram, Ward No. 24,  
House No. 110, Tikamgarh,  
District – Tikamgarh (M.P)**

**.....Applicant**

**Versus**

- 1. Union of India,**  
Through the Secretary, MoD  
Government of India, New Delhi.
- 2. COAS,**  
IHQ of MoD (Army), DHQ PO,  
New Delhi.
- 3. OIC,**  
Signal Records,  
C/o 56 APO
- 4. Commanding Officer,**  
3 ELINT Group,  
C/o 56 APO
- 5. Invaliding Medical Board,**  
Military Hospital, Jodhpur (Rajasthan),  
Through its President

**.....Respondents**

**For Applicant** : Mr KC Ghildiyal, Sr Advocate with  
Mr HC Singh and Mr Pradeep Dwivedi, Advocates

**For Respondents** : Mr Aakash Malpani holding brief of  
Mr HS Ruprah, CGSC

### **ORDER**

#### **Brief Arguments by Counsel for the Applicant**

1. The individual had been enrolled in the Corps of Signals on 15.12.2004. While returning from leave, on 10.10.2012, the individual had an altercation with a railway staff at Jhansi Railway Station. On complaint by the said staff, the CMP took him to MH, Jhansi where he was admitted.
2. The Medical authorities diagnosed the individual as a case of **ALCOHOL DEPENDENCE SYNDROME (ADS)** and placed him in Low Medical category S 3 (Temporary) with effect from November 2012. Due to complete absence, in the next medical review board, the individual was upgraded to S 2 (Temporary) with effect from October 2013. As the applicant completely abstained from alcohol, the medical category was upgraded to S 1 with effect from September 2014.
3. In the year 2017, while out on a picnic with Unit Personnel on 16.04.2017, the individual had consumed a small quantity of liquor. On return from picnic, the individual with a friend who was not a Dining in Member entered the Unit Mess for lunch wherein an altercation with the Senior JCO and Mess Havildar took place. On the direction of the CO, the individual was taken to the MI Room of 412 Field Hospital from where he was referred to MH, Jodhpur. The CO, taking advantage of the

previous history of the applicant also raised AFMSF 10 (Psychiatric Examination).

4. The individual was referred for the opinion of the Classified Specialist (Psychiatry) in MH Jodhpur wherein, the Specialist on 01.06.2017, after tracing the history without any evidence on record and contrary to the earlier reports endorsed that “he started consuming alcohol since 1 ½ years or so and initially on occasions but gradually started consuming as before” and recommended invalidment of the applicant from service in S 5 category (Annexure A/5).

5. The applicant was then subjected to Invalidment Medical Board (IMB) on 05.05.2017 wherein the Board recommended him to be invalided from service in S 5 category. Based on the IMB, the CO of the applicant issued a SCN on 04.09.2017 asking him to show cause as to why he should not be discharged from the service on being placed in medical category S 5 (Annexure A/6). In the SCN, the IMB was shown as held in the month of August 2017, whereas it was not so. The SCN contained two references ie., of a letter dated 24.08.2017 issued by HQ Southern Command and of a Signal dated 01.09.2017, copies of which were not supplied to the applicant. The individual was given a movement order on 12.09.2017 wherein he was informed that he had been discharged from Service with effect from 12.09.2017.

6. Army Order 3/2001 deals with procedures to be adopted for dealing with cases of ADS. As per the ibid AO, when an individual has been upgraded to S1 Category and then there is a sign of relapse, the individual is referred to the Psychiatrist by the CO/MO. In the case of the applicant there was no sign of relapse and even in the AFMSF 10

(Psychiatric Examination), there were no adverse remarks. After getting upgraded to S 1, consumption of authorized liquor during liquor issues cannot be construed as a case of relapse. Yet the case was processed as a relapse case. The Specialist without any supporting evidence, recommended invaliding in S 5 category. The IMB had been held even before the opinion of the Specialist. The authorities also failed to take into consideration the fact that the individual had already completed 12 years of service with no red ink entries and was closer to pensionable service.

7. In view of the above facts and circumstances, the invalidment of the individual has been arbitrary, illegal and unjustified. Hence aggrieved, the OA has been preferred with the following prayers:-

- (a) To quash the IMB proceedings and order dated 12.09.2017 issued by Respondent No 4.
- (b) To direct the respondents to reinstate the applicant in service with effect from 12.09.2017 with all consequential benefits such as arrears of salary, continuity in service, seniority and future promotions.
- (c) Any other appropriate writ, order or direction which the Tribunal may deem just and proper in the nature and circumstances of the case.

#### **Brief Arguments by Counsel for the Respondents**

8. Details of service, being a matter of record, altercation with railway staff at Jhansi Railway Station and consequent medical

downgradation on account of ADS, not under dispute, same was not gone into by the Counsel.

9. After being upgraded in September 2014, to S 1 from S 2 medical category on account of ADS, though the Counsel for the Applicant had stated that the individual had abstained from drinking, the fact on the ground is that he had been regularly consuming alcohol. The extract of details of liquor consumed during liquor issue days for the period from 02.12.2015 to 15.04.2017 (Appendix A) belies the claim of the applicant. This was done by the individual without informing anyone that he was a case of ADS in the past while serving in another unit.

10. On 16.04.2017, though there was no issue of liquor, the applicant had indulged in unauthorized consumption of liquor and had entered the dining hall of OR Mess when the mess had already been closed which resulted in an altercation. The Unit, as per unit Standard Operating Procedure, called for CMP personnel. The CMP personnel who arrived in the scene had found the individual in an inebriated state and was sent to MI Room of 412 Field Hospital from wherein he was taken to MH Jodhpur, being an old case of ADS.

11. The SCN dated 04.09.2017 had been duly received by the individual and the receipt of same had been duly acknowledged by the applicant (Appendix B).

12. The applicant was fully aware that his IMB proceedings were under progress borne by the fact that the individual refused to sign the AFMSF 16 form, which has been duly documented. In case of ADS,



relapse is a ground for Invalidation on Medical Grounds which has been carried out as per existing rules.

13. With regard to the justification of the Counsel for the Applicant that on being upgraded from a Low Medical category on account of ADS, to S 1 medical category, consumption of authorized liquor during liquor issue days cannot be construed as relapse, the same does not hold good as while upgrading the individual to SHAPE 1, as per the advisory of Graded Specialist (Psychiatry), the individual was to observe lifelong abstinence from alcohol. Invalidment from Service in case of relapse had also been informed to the applicant in the said advisory. MH, Jodhpur while carrying out the IMB proceedings has clearly mentioned in their opinion that the applicant was a case **“Relapse Case of Alcoholic Dependency”**

14. The individual himself had admitted that while on a Unit Picnic on 16.04.2017 to Ramdevra Temple, he had purchased liquor and consumed same. The breath analyser report done by CMP, after the individual was involved in altercation in OR Mess, clearly indicates that he had consumed excessive alcohol and in addition, in his own statement, he had conceded the same.

15. With regard to date of IMB, the proceedings have been duly approved by HQ Southern Comd on 24.08.2017 only and hence there is no discrepancy as averred by the applicant regarding the IMB as stated in the SCN.

16. There has been no malafide intention on the part of anybody including the Medical authorities regarding the Invalidation proceedings.

Facts/circumstances of the case clearly indicate that it was <sup>La Tapa</sup> case of relapse of ADS which has been dealt with as per existing rules. The OA lacks merit and is liable to be dismissed with costs.

### **Consideration**

17. Heard both the parties and perused the documents placed on record.

18. We find that the key issues which needs review in the ibid case is twofold:-

(a) As to whether the individual suffered a relapse of ADS, after being upgraded in September 2014 to SHAPE 1.

(b) Legal validity/tenability of IMB proceedings dated 24.08.2017 and consequent boarding out of the individual on medical grounds on account of ADS and relief prayed for in terms of reinstatement in Service.

19. Coming to the first issue of relapse, Graded Specialist (Psychiatry) at MH, Jhansi on 20.09.2014, in his opinion had stated clearly that the individual had been informed about invalidment from Service in case of relapse and as well as had been advised lifelong abstinence from alcohol.

20. Despite being upgraded, we find that there is sufficient proof in terms of his continued consumption of alcohol during regular issue days by concealing his medical advice from the Unit, in which he was serving, after having been upgraded to SHAPE 1. This was blatantly against the medical advice of lifelong abstinence. We also find that the individual on his own admission had consumed alcohol while on Unit Picnic to Ramdevra Temple on 16.04.2017. The same gets reinforced in the Breath

Analyzer Test carried out by the Corps of Military Police officials, when he had been subjected to the same, after having involved in altercation in the OR Mess during lunch time. As per the test, Breath Alcohol content was 105mg/100ml against the acceptable limit followed in India which is 30mg/100ml, which is a clear indicator that the individual had consumed alcohol in excessive quantities (Appendix D). In view of the above instances, we hold that there was a relapse of ADS.

21. The recommendation of the *ibid* IMB in question, we hold that the same was after opinion of the Medical Specialist (Psychiatry) duly reviewed by a Board consisting of other Medical Officers. Opinion of a body of experts like a Medical Board, we are constrained not to interfere. Further, we find that no malafide/motive has been proved by the applicant against the Medical Specialist or the Board Members. The procedures adopted after IMB proceedings, laid down procedures have been adhered to. Hence, there is no merit in the relief prayed for reinstatement of the individual or for quashing the discharge enforced on 12.09.2017.

22. The OA is dismissed. No order as to costs.

Pronounced in open Court on 18<sup>th</sup> July 2023

**(JUSTICE RAJENDRA MENON)**  
CHAIRPERSON

**(LT GEN GOPAL R)**  
MEMBER (A)

A/L