

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI****O.A.No.24 of 2016**

**Sri Ashish Prasad  
S/O Upendra Prasad  
GE 868 E/W/S  
C/O-99 APO Rangapahar Cantt  
District-Dimapur, Nagaland  
Pin-912868**

**..... Applicant**

**By legal practitioner  
for Applicant  
P. Mahanta  
A.Khound  
R.B.Gohain**

**Versus**

**1.Union of India,  
Represented by the Secretary,  
Govt. of India, Ministry of Defence,  
Sena Bhawan, New Delhi-110001**

**2.The Commanding Officer,  
MTTI, Airforce, Avadi  
C/o-99 APO Rangapahar Cantt  
Dimapur, Nagaland.**

**..... Respondents**

**By legal practitioner  
for Respondents  
B.Kumar, CGSC.**

**CORAM:****HON'BLE MR. JUSTICE K.HARILAL, MEMBER (J)****HON'BLE AIR MARSHAL BALAKRISHNAN SURESH, MEMBER (A)****O R D E R**  
**04.04.2024****(K.Harilal, J)**

1. Aggrieved by the premature discharge of the applicant from service on 12<sup>th</sup> May, 2016 on medical ground after six months of service as a Trainee, the applicant has preferred this Original Application and prayed for an order directing the respondents to reinstate him in his present post of service rendered in the Indian Air Force, after setting aside Annexure-8 discharge order.
2. The applicant Ashish Prasad, Trainee No.8970875-S, was recruited in the Indian Air Force on 31<sup>st</sup> December, 2014 and discharged on 12.05.2016. According to him, he has a good academic career, and on the basis of his performance in the recruitment process, he was recruited and on examination he was found medically and physically fit for Air Force service as an Automobile Technician. He joined his service as a Trainee for the said post for a period of one year, with Service No.8970875-S. He was provided with Annexure-5 Identity Card also. During the period of training, he was

paid Rs.9,000/- per month vide Annexure-6 Pay Slip. After completion of six months of his service as a Trainee, unfortunately he suffered from fever and shivering, and he was admitted in the Military Hospital on 20.08.2015 and from there he was shifted to Station Medical Centre (SMC) and he was released from the said hospital on 07.09.2015. Thereafter, he was informed by the Medical Officer that he is suspected to be suffering from BTT, i.e., 'Beta Thalassemia Trait'. So, he was admitted and kept under observation at 23 ED AF Air Force Station, Avadi Hospital for a period of 21 days on sick leave until he was declared as medically fit and finally he was discharged from the hospital on 10.03.2016. According to him, the disease 'Beta Thalassemia' is mostly common in people of Mediterranean, Middle Eastern, South Asian etc. A person with BTT simply carries the genetic trait for it and will usually experience no health problems other than a mild anemia. Soon after his discharge from the aforesaid hospital, he approached the authority concerned to resume his duties for completing the remaining six months of his service as a Trainee. But, he was extremely shocked when he was informed that he was permanently discharged from service vide order dated 12.05.2016 on medical ground, which was quite unfortunate. He did not have any inborn disease and it was completely a bad phase from which he has totally recovered. Annexure-8 is the discharge order dated 12.05.2016. The

authorities have discharged him in a very casual manner causing prejudice to his future service career. His health condition is not a permanent health complicacy and he has duly recovered. Therefore, the respondents should not have discharged him from service during the training period. Moreover, no prior notice of discharge was served or issued to him. In the above circumstances, he was left with no remedy other than approaching this Tribunal.

2.1 The applicant has filed a rejoinder also on 14.12.2016 reiterating the contentions raised in the O.A. and opposing the contentions raised in the Affidavit-in-Opposition filed by the respondents.

2.2 During the pendency of the Original Application, on 9<sup>th</sup> May, 2018 the applicant has filed an Amended O.A. reiterating all the allegations raised in the O.A. and further mainly challenging the reliability and applicability of IAP 4303 (4<sup>th</sup> Edition) under which the medical experts found that he was medically unfit for further Air Force service as he was suffering from 'Beta Thalassemia Trait'. According to the applicant, IAP 4303 (4<sup>th</sup> Edition) is not reliable as it was outdated. The last edition (4<sup>th</sup> Edition) was published six years before the discharge of the applicant from service. That apart, no reliance can be placed on the opinion of the Medical Advisor of the

Command Hospital, AF, Bangalore as his opinion was only suggestive. The applicant has prayed for setting aside Paragraph No.3.13.4 of Chapter 13 of IAP 4303 (4<sup>th</sup> Edition) as it is unconstitutional, arbitrary and violative as per law also.

3. In the Affidavit-in-Opposition the respondents raised various contentions to justify the premature discharge of the applicant on medical ground during the period of training, after six months. They admitted that at the time of recruitment he underwent primary medical examination but the same was not an exhaustive medical examination. He was enrolled in service on 31.12.2014 and he reported sick to SMC Avadi on 19.08.2015 with disorientation, high fever and severe chills. He was admitted to SMC and was transferred to MH Chennai on 20.08.2015 for further evaluation. At MH Chennai he was treated conservatively by Medical Specialist who recommended three weeks' sick leave with effect from 08.09.2015 to 28.09.2015. After the expiry of sick leave, he reported back to SMC on 29.09.2015 and he was referred to MH Chennai for review on 30.09.2015. He was admitted to MH Chennai on 05.10.2015 and on evaluation, diagnosed as a case of ID-MICROCYTIC HYPOCHROMIC ANAEMIA (Iron Deficiency Anemia) and Medical Specialist opined him to be placed in Low

Medical Category P3 (T24) and transferred the case to Avadi on 10.10.2015 for holding Medical Board. The Medical Board was held on 15<sup>th</sup> October, 2015 and he was placed in Low Medical Category A4G4(T-24). Further, the Medical Board proceedings AFMSF-15 was forwarded to HQ, Training Command, Indian Air Force (PMO) for approval. HQ, TC, Indian Air Force (DPMO) directed the Senior Medical Officer, 23 ED AF on 30<sup>th</sup> October, 2015 to review the case of the applicant to ascertain the type of Anemia and returned the Medical Board proceedings vide Annexure-R1. So, he was further referred to Command Hospital, Bangalore on 02.11.2015 for review and opinion of the Medical Specialist. During re-evaluation and review at Command Hospital, Air Force, Bangalore he was found to be suffering from 'BETA THAILASSEMIA TRAIT' which is a genetic and permanent disability and it is neither attributable to nor aggravated by military service. Group Captain Ajay Handa, the Senior Advisor, Medicine & Pulmonology of Command Hospital, Bangalore opined the applicant to be invalided out from service in Low Medical Category P5 (ApGp in IAF). The applicant has been prematurely discharged from service on medical ground due to 'Beta Thalassaemia' as per the provisions of IAP 4303 (4<sup>th</sup> Edition) and this book is a ready reference for Medical Officers of IAF for conduct of Medical Examinations/Medical Boards (including Invaliding Medical Boards) for Air

Force personnel (including *ab-initio* trainees i.e. AC (U/Ts). Thereafter, the Station Review Board was conducted on 06 March, 2016 wherein the case of the applicant was considered and the Board also opined that he is to be discharged from service as he is unfit for service. Since the Senior Advisor, Medicine & Pulmonology of the Command Hospital, Bangalore opined the applicant to be invalided out from service in Low Medical Category P5, as a Trainee, he was not entitled to continue in the Indian Air Force. The respondents vehemently denied the contentions in Paragraphs 4 and 6 of the Original Application. The applicant's contention that he verbally approached the concerned authority for consideration of his case and there is no other alternative remedy available to him except to approach this Tribunal for appropriate relief is not true and correct. There is no provision for consideration of grievance on verbal request. The Government of India, Ministry of Defence formulated a Policy vide No.AIR HQ/40993/08/PA1/D(AIR-III) dated 04.05.2011 for providing an opportunity for re-enrollment. The respondents have specifically stated the salient features of the policy for re-enrollment. But the applicant has not exhausted statutory remedies provided under the aforesaid policy for re-enrollment. He was prematurely discharged from service during the period of training itself for the better interest of the Indian Air Force. There was no prejudice or *mala*

*fides* against the applicant. The premature discharge of the applicant was an action made with *bona fides*.

3.2 The respondents have filed an Additional Affidavit-in-Opposition also with a full description of IAP 4303 (4<sup>th</sup> Edition) and its reliability and applicability in the instant case. According to the respondents, IAP 4303 (4<sup>th</sup> Edition) is an authority under which the discharge of an Air Warrior can be made when he is found unfit for service. There is no reason to discredit the veracity and reliability of IAP 4303 (4<sup>th</sup> Edition) as it was approved and published under the authority of Chief of the Air Staff and the current edition in vogue is the 4<sup>th</sup> Edition published on 24<sup>th</sup> September, 2010. There are circumstances where principles of IAP 4303 (4<sup>th</sup> Edition) have been accepted by the Hon'ble Supreme Court of India and various Tribunals. Hence, the respondents have prayed for dismissal of the O.A. as it is devoid of merits.

4. Heard Mr. P.Mahanta, learned counsel appearing for the applicant and Mr. B.Kumar, learned Central Government Standing Counsel appearing for the respondents.

5. The sum and substance of the arguments advanced by the learned counsel appearing for the applicant is that the premature discharge of the



applicant during the period of training after six months of training without sufficient medical ground is illegal, arbitrary and liable to be interfered by this Tribunal. The applicant was casually discharged from service, without conducting proper medical investigation or treatment in competent hospital, having facility for that. Actually, 'Beta Thalassemia Trait' is a disease, which does not require premature discharge. The applicant was physically and medically fit at the time of enrollment and he was admitted with a temporary disease which has not made him unfit for Air Force service. He has raised various contentions in support of the grounds raised in the Amended O.A. challenging the credibility and reliability of IAP 4303 (4<sup>th</sup> Edition). According to the learned counsel for the applicant, no reliance could have been placed in the said Edition, which is an outdated one. The opinion of the medical expert is suggestive only. So, the applicant should not have been discharged prematurely on the basis of that suggestion only.

6. *Per contra*, the learned Central Government Standing Counsel appearing for the respondents vehemently opposed the reinstatement of the applicant into service as a Trainee as he was unfit for Air Force service as per the opinion of the medical authorities and experts. He raised a preliminary objection that this Original Application is not maintainable under

Section 21 of the Armed Forces Tribunal Act, 2007 as the applicant has not exhausted the statutory remedies available to him under the Indian Air Force Act, 1950 or the provisions under Policy vide No.AIR HQ/40993/08/PA1/D(AIR-III) dated 04.05.2011 issued by the Government of India, Ministry of Defence for re-enrollment of medically invalided out Ex-Airmen into the Indian Air Force. Therefore, according to the learned Central Government Standing Counsel, this Original Application is liable to be dismissed under Section 21 of the Armed Forces Tribunal Act, 2007, without entering into the merits of the case. He invited our attention to the sequence of hospitalizations of the applicant from the very beginning and contended that he was referred to, admitted and treated in superior hospitals, i.e., Military Hospital, Chennai and Command Hospital at Bangalore, having competent medical experts and they directed the respondents to discharge the applicant from service as he is unfit for service. The applicant has not disclosed the reference to and treatment in the Military Hospital, Chennai and Command Hospital, Bangalore. Finally, he was discharged as per the opinion of the IAF Command Hospital, Bangalore. Therefore, there is no reason to interfere with the medical opinion of the authorities. The learned Central Government Standing Counsel also invited our attention to IAP 4303 (Manual of Medical Examinations and Medical Boards) published under the

authority of Chief of the Air Staff and the current edition in vogue (4<sup>th</sup> Edition) published on 24<sup>th</sup> September, 2010. IAP 4303 (4<sup>th</sup> Edition) is an authority published by the Chief of the Air Staff for determining premature discharge of the Air Warriors, when they are found unfit for further service. As per the medical standards prescribed for intake in the Indian Air Force, the applicant is not entitled for Air Force service. In support of the aforesaid arguments, the learned Central Government Standing Counsel has cited the decision of the Supreme Court in **Ministry of Defence v. A.V.Damodaran [(2009) 9 SCC 140]**.

7. We have meticulously gone through the rival pleadings, materials on record and submissions at the Bar. *Prima facie*, we find that the preliminary question to be considered is whether the Original Application is maintainable under Section 21 of the Armed Forces Tribunal Act, 2007. Section 21 reads thus:

**“21. Application not to be admitted unless other remedies exhausted.-**(1) The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of the remedies available to him under the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act,

1950 (45 of 1950), as the case may be, and respective rules and regulations made thereunder.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 62 of 1957) or the Air Force Act, 1950 (45 of 1950), and respective rules and regulations-

(a)if a final order has been made by the Central Government or other authority or officer or other person competent to pass such order under the said Acts, rules and regulations, rejecting any petition preferred or representation made by such person;

(b)where no final order has been made by the Central Government or other authority or officer or other person competent to pass such order with regard to the petition preferred or representation made by such person, if a period of six months from the date on which such petition was preferred or representation was made has expired."

8. It is well inferable from the aforesaid section that this Tribunal shall not ordinarily admit an application unless and until it is satisfied that the applicant had availed of all the statutory remedies available to him under the

Air Force Act, 1950. We do not find any extra-ordinary circumstance to deviate from the aforesaid provision. According to the applicant, there is no provision for redressing his grievance under the law. We do not agree with the said contention of the applicant. Certainly, he could have filed an application under Section 26 of the Air Force Act, 1950 or the provisions under the Rules and Regulations for Air Force and the orders and policy letters issued by the Government of India. More importantly, as contended by the respondents, he was provided with a remedy to redress his grievance by seeking re-enrollment as provided under Policy Letter No.AIR HQ/40993/08/PA1/D(AIR-III) dated 04.05.2011 for re-enrollment of medically invalided out Ex-Airmen into the Indian Air Force, issued by the Government of India, Ministry of Defence. The respondents in their Affidavit-in-Opposition have specifically quoted all the provisions of the aforesaid letter. Moreover, going by the interim order dated 19.07.2016, we find that the Standing Counsel appearing for the respondents submitted that if by following the procedure laid down, the applicant files an application for re-enrollment, the same would be considered in terms of the communication dated 4<sup>th</sup> May, 2011 as well as in terms of the Air Force Act. But, he did not file such an application for re-enrollment and thereby, he rejected the said offer made by the respondents. It shows the lack of *bona fides* in the claim for re-enrollment.

He has miserably failed to submit a written application challenging his premature discharge from service before his immediate superior officer under Section 26 of the Air Force Act or to the Chief of the Air Staff. Similarly, Regulations 621 and 622 of the Regulations for the Air Force provide provisions for redressal of the grievance of an Airman. Thus, the applicant has not exhausted any of the statutory remedies provided under the aforesaid policy letter or the Air Force Act or the said regulations. Therefore, we find that this Original Application was liable to be dismissed at the threshold as not maintainable.

9. Though this Original Application was not maintainable under Section 21 of the Armed Forces Tribunal Act, 2007, considering the long pendency of this O.A. before this Bench of the Tribunal from 2016 onwards, we have examined the merits of the case also.

10. On merits, the question to be considered is, had there been any illegality, impropriety or arbitrariness in the premature discharge of the applicant during the training period on the ground that he is medically unfit for further service due to the disability (Permanent) caused by 'Beta Thalassemia Trait'?

11. To answer the aforesaid question, the points to be considered are:

I. Whether the recommendation to prematurely discharge the applicant during the training period as he was unfit for further Air Force service due to the disability (Permanent) caused by 'Beta Thalassemia Trait' has been made by competent medical expert?

II. Whether the applicant had been subjected to proper medical investigations and treatments in competent hospital, having facilities for that, before taking the decision to prematurely discharge him during the period of training due to the disability caused by 'Beta Thalassemia Trait'?

III. Whether the decision to prematurely discharge the applicant from service due to his disability caused by 'Beta Thalassemia Trait' has been supported by any reliable medical authority approved by the Indian Air Force?

Since Point Nos.I and II are inextricably interconnected, they are considered together.

12. Let us examine the investigation and course of treatments given to the applicant as stated by him.

13. In Paragraph 4.6 of both the Original Application and Amended Application, the applicant has narrated the investigation and course of treatments given to him as given below:

13.1 After completion of six months of his service as a trainee, unfortunately the applicant suffered from fever and shivering. As such, he was admitted in the Military Hospital on 20.08.2015 and from there he was shifted to Station Medical Centre (SMC) and he was released from the aforesaid hospital on 7.9.2015. Thereafter, he was informed by the Medical Officer that he is suspected to be suffering from 'Beta Thalassemia Trait' and he was kept under observation at the 23 ED AF Air Force Station, Avadi Hospital for a period of 21 days on sick leave until he was declared medically fit. He recovered from his cold and fever and on being found medically fit, he was finally discharged from the hospital on 10.03.2016. Thus, he was treated at the 23 ED AF Air Force Station, Avadi Hospital and Military Hospital before his discharge from service. In short, the respondents have discharged the applicant in a very casual manner, without proper medical investigation or treatment, by a competent hospital.

14. But surprisingly, going by Paragraph 5 of the Affidavit-in-Opposition and the Additional Affidavit-in-Opposition filed by the respondents, we find



that after preliminary investigation and treatment in Station Medical Centre at 23 ED, AF on 19 Aug 2015, he was transferred to Military Hospital, Chennai on 20 Aug 2015 for further management. He was admitted in the Military Hospital, Chennai and treated conservatively by Medical Specialist and he was diagnosed with 'Microcytic Hypochronic Anemia'. He was placed in low medical category on the basis of the recommendation made by the Medical Specialist in the Military Hospital, Chennai. After discharge from that hospital, he was granted 21 days' sick leave from 08 Sep 2015 to 28 Sep 2015. He was again admitted in the Military Hospital, Chennai on 05 Oct 2015 for review after completion of sick leave and routed back to Station Medical Centre, 23 ED on 09 Oct 2015 for conduct of Medical Board. The Medical Board of the applicant was held on 15 Oct 2015 and he was placed in low medical category A4G4(T-24). Further, Medical Board proceedings AFMSF-15 was forwarded to HQ Training Command, IAF (PMO) for approval. HQ TC, IAF (DPMO) had directed the Senior Medical Officer, 23 ED, AF on 30 Oct 2015 to review the case of the applicant to ascertain the type of anemia and also returned the Medical Board proceedings vide Annexure R-1 letter dated 05.11.2015. Pursuantly, the applicant was further referred to Command Hospital, Air Force, Bangalore on 02 Nov 2015 for review and opinion of the Medical Specialist. The Command Hospital, Air

Force, Bangalore found that he was suffering from 'Beta Thalassemia Trait' as brought out in further investigation and review at Command Hospital, AF, Bangalore. As per the opinion of Group Captain Ajay Handa, Senior Advisor (Medicine and Pulmonology) of Command Hospital, AF, Bangalore, dated 03 Dec 2015, the applicant was unfit for Air Force service as he was suffering from 'Beta Thalassemia Trait'. The opinion of the aforesaid medical expert vide Annexure R-2 is reiterated below:

“This Air-Force under-trainee is a freshly detected case of Beta Thalassemia Trait during evaluation for Microcytic Hypochromic Anemia. In view of genetic and permanent nature of disability he is being recommended to be invalided from the service in LMC P5.”

The applicant was again admitted in the Station Medicare Centre, 23 D on 06 Dec 2015 and he was intimated the recommendation of Command Hospital, Bangalore that his disease is an old case of 'Beta Thalassemia Trait' ICD No. D 56.1 (Permanent), and he will be discharged from service as he was unfit for further service. Thereafter, Invaliding Medical Board was conducted on 18 Dec 2015 and the applicant was found fit to be released in Medical Category 'ApGp' for the disease 'Beta Thalassemia Trait' which was neither attributable to nor aggravated by Air Force service. Thereafter,

Station Review Board (SRB) was conducted on 6 May 2016 vide Annexure R-3 and further course of action was taken to discharge the applicant from Air Force service and it was properly intimated to him. The Invaliding Medical Board proceedings were approved by Competent Authority vide TC/MD/219 dated 4 Mar 2016 and the same was also communicated to the applicant.

15. On a combined reading of the aforesaid paragraphs of the Original Applications and the Affidavits-in-Opposition filed by the respondents, *prima facie* we find that the applicant has wilfully suppressed the full details of the investigation conducted and the full treatments given to him in Military Hospital, Chennai and his further reference to Command Hospital, Bangalore for further review and final opinion of the Senior Advisor (Medicine and Pulmonology) in compliance with the direction of Senior Medical Advisor, HQ Training Command, IAF. That apart, he has suppressed the very relevant medical documents, Annexures R-2 and R-4, the opinion of Group Captain Ajay Handa, Senior Advisor, Medicine and Pulmonology, Command Hospital, Bangalore and applicant's medical case sheet of Military Hospital, Chennai respectively. Though nothing has been stated in the pleadings about the reference to and further review made by Command Hospital, Bangalore, it is seen that the applicant has produced

two irrelevant documents, the Discharge Slip and Peripheral Blood Smear Report as Annexure-7. It further shows that those documents may be incorporated unknowingly. Evidence without pleadings cannot be looked into. From the averments in Paragraph 4.6 of the Original Application, it appears that the applicant has been found unfit for future service due to 'Beta Thalassemia Trait' and prematurely discharged from service on the medical opinion of the Station Medical Centre (SMC) only. It could be reasonably presumed that the said wilful suppression was made to make it appear that the premature discharge of the applicant due to 'Beta Thalassemia Trait' was on the basis of the insufficient treatment and unreliable medical opinion given by the doctors in the Station Medical Centre (SMC). In this context, we remind the applicant that it is trite law that the applicant, who seeks remedy from a Court of Law/Tribunal, shall come with clean hands and those, who have wilfully suppressed the material pleadings and documents, are not entitled to get any relief from the Court of Law/Tribunal.

16. On a meticulous verification of the course of treatments given to the applicant from the beginning of the disease till his discharge from service, spanning about nine months, *prima facie* we find that the recommendation

that the applicant was medically unfit for further service as he was suffering from 'Beta Thalassemia Trait' and he is liable to be discharged from service has been made by Group Captain Ajay Handa, Senior Advisor (Medicine and Pulmonology) of the Command Hospital, Bangalore and his recommendation was approved by the Competent Authorities and acted upon by the statutory authorities. On a careful evaluation of Annexures R-1 to R-6, produced along with the Affidavit-in-Opposition, we find that the course of treatments given to the applicant from 19 Aug 2015 to 03 Dec 2015 in the hospitals, Station Medicare Centre at ED, Military Hospital, Chennai and finally in the Command Hospital, AF, Bangalore, is proved well beyond shadow of doubt by Annexures R-1 to R-4. We do not find any reason to disbelieve the course of treatments given to the applicant in the Military Hospital, Chennai and in Command Hospital, Bangalore as stated by the respondents. Thus, we make it sure that the applicant was subjected to proper treatment in time in the said well equipped hospitals by very competent medical experts. So also, we reject the applicant's case that he was discharged casually, without giving sufficient treatment, under the opinion of incompetent doctors in Station Medicare Centre, 23 ED, AF.

17. In the amended O.A. the applicant has raised a contention that the opinions of the medical experts are suggestive only and no reliance can be placed on those suggestions. This contention is *prima facie* untenable and made without any *bona fides*. We have already reiterated the opinion of the Senior Advisor (Medicine and Pulmonology), Command Hospital, Bangalore. We find that the final opinion of the said Senior Advisor is not suggestive and on the other hand, it is unequivocal and confirmative. The authorities are justified in relying on the opinion of the said Medical Advisor for prematurely discharging the applicant from service. Thus, the first and second points are found against the applicant.

18. Coming to the third point, it is stated in the Additional Affidavit-in-Opposition filed by the respondents that the aforesaid decision to discharge the applicant from Air Force service due to the disease 'Beta Thalassemia Trait' was taken on the basis of IAP 4303 (Manual of Medical Examinations and Medical Boards) (4<sup>th</sup> Edition) published under the authority of Chief of Air Staff on 24<sup>th</sup> September, 2010. The Manual has been published in accordance with the laid down medical standards for intake in IAF and the medical assessment of Air Warriors in service. Para 3.13.4 of IAP 4303 (4<sup>th</sup> Edition) states that "all candidates with evidence of hereditary hemolytic

anemia (due to red cell membrane defect or due to red cell enzyme deficiencies) and haemoglobinopathies (Sickle cell disease, Beta Thalassaemia: Major, Intermedia, Minor, Trait and Alpha Thalassaemia etc.) are to be considered unfit for service." The provisions of IAP 4303 (4<sup>th</sup> Edition) act as a ready reference for Medical Officers of Indian Air Force for conduct of Medical Examinations/Medical Boards (including Invaliding Medical Boards) for Air Force personnel (including *ab-initio* trainees, i.e., AC (U/Ts) and the said provisions are exhaustive and used extensively by Medical Officers of IAF in the field and commands. There are instances where the aforesaid provisions have been produced in various Courts and Tribunals across the country as well as before the Hon'ble Supreme Court. As the authority of IAP 4303 has stood the test of time in various Courts of law, the legality and validity are unquestionable.

19. We noticed that the applicant has not denied or challenged the presence or contents of Paragraph 3.13.4 of IAP 4303 (4<sup>th</sup> Edition) and the present application of the Edition for determining the disability 'Beta Thalassaemia Trait' and for the conduct of Medical Examinations/Medical Boards in the Indian Air Force, either in the Rejoinder or in the Amended O.A. and thereby it stands admitted. We have also independently verified the

aforsaid statements made by the respondents about the application and reliability of IAP 4303 (4<sup>th</sup> Edition) in the Indian Air Force and Courts in India and found them true and correct.

20. We have carefully gone through Paragraphs 5.6 to 5.8 of the Amended Original Application, wherein certain grounds are raised challenging the reliability and applicability of IAP 4303 (4<sup>th</sup> Edition). According to the applicant, 4<sup>th</sup> Edition of IAP 4303 is outdated as it was published six years back. It is pertinent to note that the applicant has sought for setting aside Paragraph 3.13.4 of Chapter 13 of IAP 4303 (4<sup>th</sup> Edition) only which stands for his discharge from Air Force service stating that he is unfit for further service due to 'Beta Thalassaemia Trait'. It shows that the applicant has no complaint/objection against the contents of the said IAP 4303 (4<sup>th</sup> Edition), except the said paragraph 3.13.4 of Chapter 13 which declares that he is unfit for service due to 'Beta Thalassaemia Trait'. In short, the applicant wants to remove the said paragraph under which he was prematurely discharged from service only. It follows that the challenge against the said one paragraph was made to protect his self interest only without any *bona fides* or valid reason. It is to be remembered that practically new edition of an authoritative and comprehensive reference book cannot be published every



year. New editions can be published periodically only. So, we do not find anything wrong in relying on IAP 4303 (4<sup>th</sup> Edition), and the respondents are justified in relying on the said book as it was approved and published under the authority of Chief of Air Staff. Even if the grounds raised in the Amended O.A. as a whole are taken at their face value, we do not find any valid reason or *bona fides* in any of the grounds raised for setting aside Para 3.13.4 of Chapter 13 of IAP 4303 (4<sup>th</sup> Edition). Therefore, the third point is also found against the applicant.

21. Thus, all the questions raised in this O.A. are found against the applicant.

22. In view of the above analysis, we find that there had been no illegality, impropriety or arbitrariness in the premature discharge of the applicant during the training period. Thus, this Original Application is devoid of merits also.

23. This Original Application is dismissed. No order as to cost.

**AIR MARSHAL BALAKRISHNAN SURESH  
MEMBER (A)**

Sha/mc

OA-24 of 2016

**JUSTICE K. HARILAL  
MEMBER (J)**