

**IN THE ARMED FORCES TRIBUNAL  
REGIONAL BENCH, GUWAHATI**

OA - 01 of 2018

PRESENT

HON'BLE DR. (MRS) JUSTICE INDIRA SHAH, MEMBER (J)  
HON'BLE LT GEN GAUTAM MOORTHY, MEMBER (A)

DS 11994M Lt. Col. T. Moaba Amer (Retd),  
H. No. 481, Lengrijan, Dimapur  
Nagaland, PIN-797112

..... Applicant

By legal practitioners for  
Applicant.

**Mrs. Rita Devi**  
**Mr. A.R.Tahbildar**

**-VERSUS-**

1. **The Union of India represented by**  
the Secretary, Ministry of Defence,  
Sena Bhawan, New Delhi
2. **Additional Directorate General**  
Personnel Services,  
Adjutant General's Branch,  
Integrated HQ of MOD (Army), Room No. 11  
Plot No. 108 (West)  
Brassey Avenue, Church Road  
New Delhi-110001
3. **IHQ of MOD(Army), Adjutant General's Branch**  
DGMS (Army), MPRS (O),  
'L' Block, New Delhi
4. **The Principal Controller of Defence Accounts,**  
(Pension), Allahabad  
PIN-211014, Uttar Pradesh.

..... Respondents

By Legal Practitioner for the  
Respondents

**Brig N. Deka (Retd), CGSC.**

Date of Hearing : 13.07.2018  
Date of Judgment & order: 13.07.2018

## JUDGMENT & ORDER

*(Per Lt Gen Gautam Moorthy, Member (A))*

1. This application has been filed under Sections 14 & 15 of the AFT Act, 2007, by the applicant who was a Short Service Commission Dental Officer seeking disability element of disability pension.
2. The brief facts of the case are that the applicant was commissioned in the Army Dental Corps on 04.03.1999 and was discharged from service on 03.03.2013 on completion of terms of engagement in Low Medical Category S<sub>1</sub>H<sub>1</sub>A<sub>1</sub>P<sub>2</sub>E<sub>1</sub> for the disease "Atrial Fibrillation" which was noted as aggravated by medical service with 20% disability for life by the Release Medical Board.
3. However, the applicant was not granted any disability element of pension. The applicant preferred two applications, first one to the First Appellate Committee on 13.11.2014 which was rejected and subsequently he preferred second appeal to the Second Appellate Committee on 22.06.2017 which was also rejected the claim of the applicant vide their order No. B/38046A/408/2016/AG/PS-4(2<sup>nd</sup> Appeal) dated 22.06.2017 observing that –

*"Detection of ID was during PME in Feb 2009 while serving in Peace (Barrackpore). He was evaluated thoroughly and managed conservatively. At the time of RMB, the individual was asymptomatic on medication. ID 'Atrial Fibrillation' is one of the Disorders of Cardiac Shytm and conduction. These are aberrations in heart rate due to varied pathological and physiological states. These conditions may arise from some organic heart disease like RHD,IHD, hypertension, infective endocarditis, myocarditis, vascular disease and drugs. It also occurs as a result of focus sepsis, thyrotoxicosis and excessive use of tea, coffee, tobacco, alcohol and as a result of flatulent distension of the stomach or intestine. Physical exertion or emotional excitement may predispose to an attack. Attributability is conceded if arrhythmia and heart blocks develop as sequelae to infections in the heart. Aggravation is awarded based on the primary disease affecting heart in relevance to service profile. None of the factors related to service could be elicited in this case. In the instant case, the onset of the ID was in a peace area and the veteran officer continued to serve in peace stations till his release from service. The ID was managed promptly and appropriately, with no complications of the ID or the treatment. The RMB has appropriately held the ID as NANA with justification quoting relevant para of GMO.Hence, the ID is conceded as neither attributable to nor aggravated by the military service (Para 28, Chap VI, GMO 2002, Amendment 2008)*

4. We have heard Mr. AR Tahbildar, learned counsel appearing for the applicant and Capt Akash Vashishta, OIC Legal Cell, AFT, Guwahati appearing for the respondents.

5. We have perused the above rejection order in the context of the Release Medical Board Proceedings (Annexure-F). In the Release Medical Board Proceedings, opinion of the Medical Board very clearly states that the disability of the applicant i.e. "Atrial Fibrillation" has been aggravated by military service and was due to physical and mental stress & strain of service.

6. The opinion of the Medical Board Proceedings in Part-V is reproduced below-

**Part-V**

OPINION OF THE MEDICAL BOARD

| Disability             | Attributable to service (Y/N) | Aggravated by service (Y/N) | Not connected with service (Y/N) | Reason/cause/specific conditions and period in service   |
|------------------------|-------------------------------|-----------------------------|----------------------------------|--|
| (a) ATRIAL FIBRILATION | NO                            | YES                         | NO                               | Due to physical & mental stress and strain of service. (Para 28, Chapter VI of GMO's Mil Divn) |

7. Also Para 6 of page 5 of the Medical Board Proceeding is reproduced below –

*"6. What is the present degree of disablement as compared with a healthy person of the same age and sex?*

*(Percentage will be expressed as nil or as follows) 1-5% 6-10% 11-14% 15-19% and thereafter in multiple of ten from 20% to 100%"*

| Disability (As numbered in question 1 Part IV) | Percentage of disablement with duration | Composite assessment for all disabilities with duration (Max 100%) with duration | Disability qualifying disability person with duration | Net assessment Qualifying for Disability Pension (Max 100%) with duration |
|--|---|--|---|---|
| (s) ATRIAL FIBRILATION                         | 20% for life                            | 20% for life   | Yes for life  | 20% for life  |

8. The respondents have not opposed to the contention of the learned counsel for the applicant. There is indeed glaring dichotomy between the grounds of rejection to the Second Appellate Committee and the Release Medical Board. It is apparent that the Second Appellate Committee has not

considered the Release Medical Board of the applicant and has simply rejected his application in mechanical manner.

9. In view of the above discussions, we are of the opinion that the applicant is entitled to disability element of pension @20% which has to be rounded off to 50% from the date of his discharge from service i.e. 3.3.2013 which was illegally denied to him by the respondents. Accordingly, the respondents are directed to grant the disability element of pension to the applicant rounded off from 20% to 50% with arrears. The arrears shall be paid to the applicant within a period of three months from the date of receipt of copy of this order failing which the applicant would be entitled to simple interest @8% per annum on the arrears payable till realization.

10. The OA is accordingly disposed of.

11. No costs.

**MEMBER (A)**

**MEMBER (J)**

*Kalita*