

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

**OA-53 of 2017**

**PRESENT**

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

**No. 701890-N Sergeant Samar Krishna Acharjee**  
Clk GD of 19 Wing Air Force,  
C/o 99 APO

..... Applicant

By legal practitioners for  
Applicant.

Applicant in person

-VERSUS-

- 1. Union of India,**  
Represented by the Secretary,  
Ministry of Defence,  
VayuBhawan, New Delhi – 110 011
- 2. First Appellate Authority**  
Air Headquarter (VB)  
Rafi Marg, New Delhi-110 106
- 3. Air Force Record Office**  
Subroto Park  
New Delhi-110 010
- 4. Air Officer Commanding**  
19 Wing Air Force  
C/o 99 APO

..... Respondents

By Legal Practitioner for the  
Respondents  
**Brig. N. Deka (Retd), CGSC**

Date of Hearing : 11.05.2018

Date of Order : 07.06.2018

**JUDGMENT & ORDER**

*(Per Indira Shah, Member (J))*

1. This application has been filed by the applicant challenging the Air Headquarters letter dated 04.10.2017 and the speaking order dated 24.11.2017 whereby the information sought by the applicant through RTI was denied by the Central Public Information Officer vide letter dated 04.10.2017 and vide order dated 24.11.2017, the First Appellate Authority rejected the appeal preferred by the applicant.
2. Heard Sgt Samar Krishna Acharjee, the applicant in person and Brig N.Deka (Retd) learned CGSC appearing for the respondents.
3. The applicant was enrolled in the Indian Air Force on 01.03.1986. His initial term of engagement expired on 28.02.2006. On 09.07.2004, he applied for first spell of extension of service from 01.03.2006 to 28.02.2012. On 06.01.2010, he applied for second spell of extension of service for three years from 01.03.2012 to 28.02.2015 and it was granted to him. On 09.07.2012, he applied for third spell of extension of service for three years from 01.03.2015 to 28.02.2018. Although he was found in Low Medical Category (LMC) A4G4 (T-24), his case was considered by Medical Condonation Board as per clause 4(e) of AFO 16/2010 and extension of his service was granted. On 04.04.2016, he applied for fourth spell of extension of service for three years from 01.03.2018 to 28.02.2021. However, in this regard, DetailedExecutiveReport was sought by Air Force Record Office and the same was forwarded on 02.01.2017. The applicant was informed about non-approval of his extension of service citing Para 4(e)(iii)of AFO 21/2014. He was interviewed by the Air Officer Commanding, 19 Wing Air Force on 17.08.2017 and was informed that the Detailed Executive Report is confidential and hence the same will not be communicated to him. Thereafter, the applicant sought for the information under RTI Act, but the same was denied in terms of Section 8(1)(e) of the RTI Act, 2005. He was advised to approach the Appellate Authority for getting the desired information. Accordingly, he approached the Appellate Authority and the authority vide their speaking order dated 24.11.2017 informed him that the information sought vide RTI application is held in fiduciary capacity and no longer public interest is served by disclosure of such information. The appeal thus filed by the applicant was rejected. In the application, the applicant has averred that while he was entrusted with the specific work as Senior Non-Commissioned Officer (Works), on 28.07.2016 Proforma for Extension of Service was signed by the then Air Officer Commanding, Air

Commodore BS Krishna Kumar, KC (Kirti Chakra) with remark "EXCELLENT" by Wing Commander NS Gaur, the then Station Works Officer (Adm) and the same was forwarded to the Air Force Record Office. The applicant apprehends that there may be adverse report on the basis of which extension of service was not granted. He alleged that prior to any such adverse report, he was not counselled or given any opportunity to explain the facts. According to him, he was assessed 'above average' during the period for last six years (2011 – 2016). The applicant has prayed for continuation of his service by granting extension for the period upto superannuation i.e. 31.07.2023 and promotion to the next higher rank which was due from 01.07.2017. He has also prayed for stay of the order of his discharge from service w.e.f. 28.02.2018.

4. In the OA, although he has challenged the denial of information through RTI, he neither has challenged his discharge nor the discharge order dated 07.03.2017 issued by the Air Force Record Office.

5. The respondents, in their affidavit in opposition have averred that on 04.04.2016, the applicant applied for fourth spell of extension of service for three years from 01.03.2018 to 28.02.2021 and his case was considered. It was found that he was in Low Medical Category (LMC) A4G4 (T-24). On scrutiny of his case to consider him through Medical Condonation Board, it was revealed that the Executive Report and Detailed Executive Report were not found attached with his application. His unit was asked to send the same, but his unit forwarded only the Executive Report. The unit was again asked to send the Detailed Executive Report which was to be considered in the Medical Condonation Board held on 24.10.2016. However, his case could not be considered at that time due to non-availability of his latest Medical Board with Medical Wing. Again the Medical Board was held on 20.02.2016, in which he was found to be suffering from Lumbar Spondylitis, Bronchial Asthma, Hypertension and other diseases. Further Detailed Executive Report dated 02.01.2017 in respect of the applicant was received in the Record Office on 10.01.2017. Accordingly, his case was considered in the Medical Condonation Board held on 25.01.2017 and found him unfit for further extension due to following –

*"As per Detailed Executive Report, individual requires continuous supervision to perform his assigned tasks and lacks initiative to undertake any task and cannot work for long hours. The organization will not be beneficial by retaining him. He has been put on employment restrictions to avoid cold/dust/fumes/smog. Unfit for HAA. Excuse PPG/BPET and prolong standing, avoid bending forward and lift heavy weights"*

6. Contention of the respondents is that as the applicant was not found fit for extension of service by the Medical Condonation Board No. 01/2017 and his case was not approved by the competent authority in terms of Para 4(e)(iii) of AFO 21/2014. Accordingly, order for his discharge w.e.f. 28.02.2018 was issued by the Record Office.

7. Clause 4(e) of AFO 21/2014 speaks about medical fitness and says that Airman seeking extension of engagement will be medically examined. Sub-clause (iii) of Clause 4(e) says that Airman placed in medical category A4G4(T/P) may be considered for grant of extension of engagement, if they are fit to perform their trade duties provided they meet all other conditions. However, cases for grant of extension of engagement in respect of such Airman will be considered by a Condonation Board consisting of the following members on case to case basis :-

- (aa) AOC, AFRO
- (ab) Rep of Dte of PA
- (ac) Medical Advisor, AFRO/Rep of DMS (MB)
- (ad) OIC Recording Wing, AFRO
- (ae) OIC Career Planning Wing, AFRO
- (af) Rep from Specialist Dte

8. Sub Clause (v) of Clause 4(e) says that on up gradation of medical category of an airman rejected earlier, the case may be reconsidered for extension of service by Condonation Board subject to receipt of application for re-consideration of grant of extension from the individual, duly recommended by the AOC/Stn Cdr/Co.

9. Here in this case, no such application for re-consideration of the grant of extension was filed by the applicant. The Armed Forces Tribunal, Principal Bench, New Delhi in **OA 347/2018(Sgt RN Behera Vs. Union of India & Ors)**, in the light of orders of the Delhi High Court has observed that **"extension of service is not a matter of right but is a matter of discretion of the department"**. Earlier the extensions of service of the applicant on three occasions were allowed. For fourth spell of extension, his case was considered in the Medical Condonation Board No. 01/2017 and as it was found that the applicant requires continuous supervision to perform his assigned tasks and lacks initiative to undertake any task and cannot work for long hours, he was put on employment restrictions to avoid cold/dust/fumes/smog. Excuse PPG/BPET and prolong standing, avoid bending forward and lift heavy weights and was also found unfit for HAA.

10. The applicant has not challenged the aforesaid findings of the Medical Condonation Board and he did not apply for re-consideration of grant of extension of service in terms of Para 4(e)(v) of AFO 21/2014.

11. On perusal of the medical documents, it appears that the applicant was diagnosed as suffering from (i) Lumbar Spondylitis (old), (ii) Bronchial Asthma (old), (iii)(a) Central Obesity, (b) Type-II DM, (c) Primary Hypertension (d) Hypertriglyceridemia and was placed on Composite Medical Category A4G4 (P). The aforesaid Medical Board was held on 07.01.2015. Subsequent to that when the applicant applied for fourth spell of extension of service from 01.03.2018 to 28.02.2021, it was found that he was in Low Medical Category A4G4(P). In the Medical Condonation Board held on 25.01.2017, the Executive Report and Detailed Executive Report were considered and the Board found him unfit for further extension for the reasons discussed earlier.

12. In view of the settled law that extension in service is not a matter of right but is a matter of discretion of the department and the fact that the applicant has neither challenged the findings of the Medical Condonation Board nor applied for re-consideration of grant of extension on any up gradation of medical category, the OA filed by the applicant is liable to be dismissed.

13. Accordingly, the OA is dismissed.

14. No costs.

**MEMBER (A)**

**MEMBER (J)**