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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 01.04.2026*

+ W.P.(C) 4187/2026

UNION OF INDIA AND ORS.

.....Petitioners

Through: Ms. Arunima Dwivedi CGSC with
Ms. Swati Jhunjunwala, Ms.
Monalisha Pradhan, Advs. Sgt Padam
Charan IAF.

versus

684783 EX HFO BRIJ KISHOR TRIPATHI

.....Respondent

Through: Mr. Manoj Kr. Gupta, Ms. Esha
Mehrotra and Ms. Devangana
Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

CM APPL. 20450/2026

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 4187/2026 & CM APPL. 20449/2026

3. This is a writ petition filed under Article 226 of the Constitution of India against the order dated 11.04.2023 [‘impugned order’] passed by the Armed Forces Tribunal Principal Bench, New Delhi [‘Tribunal’] in Original Application [‘O.A.’] No. 1265 of 2021 titled as **(684783) EX HFO Brij Kishor Tripathi v. Union of India and Ors.**, whereby the Respondent has



been granted the benefit of the disability element of pension for Primary Hypertension and Diabetes Mellitus Type-2 compositely assessed, by Release Medical Board [‘RMB’] at 40% rounded off to 50% for life, from the date of his discharge.

4. The facts giving rise to the present petition are that the Respondent, who was enrolled in the Indian Air Force [‘IAF’] on 18.06.1983, was discharged in low medical category [‘LMC’] A4G4 (P) after rendering a total of 37 years of regular service.

5. The RMB held on 01.10.2019 assessed the disabilities, i.e., (i) Primary Hypertension at 30% for life and (ii) Diabetes Mellitus Type-2 at 20%, compositely assessed at 40% for life.

The RMB opined that since Primary Hypertension was ‘onset in the peace station’, i.e., Chhabua and Diabetes Mellitus Type-2 was ‘a metabolic disease’ and the ‘onset of the disease’ in the peace station, i.e., Thane. Therefore, it held that the aforesaid disabilities are neither attributable to nor aggravated [‘NANA’] by the military service.

6. The Respondent’s claim of disability pension was rejected by the Petitioners vide letter dated 31.03.2020, as the disability was held to be NANA. Thereafter, the Respondent preferred a First Appeal on 23.10.2020, which was rejected.

7. Pursuant thereto, the Respondent filed O.A. No. 1265 of 2021 before the Tribunal for the grant of disability element of pension.

Vide the impugned order, the Tribunal, after referring to the judgments of the Supreme Court in **Dharamvir Singh v. Union of India and Ors.**¹ and **Union of India v. Ram Avtar**² allowed the O.A. and granted

¹ 2013 (7) SCC 361



the relief of disability pension to the Respondent.

8. The submission made by the learned counsel for the Petitioners is that the reliance placed by the Tribunal on the judgment of **Dharamvir Singh v. Union of India and Ors.** (supra) is totally misplaced as in the said case the Supreme Court was concerned with the Entitlement Rules for Casualty Pensionary Awards, 1982 [‘Entitlement Rules, 1982’], whereas the case of the Respondent needs to be considered under the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 [‘Entitlement Rules, 2008’].

8.1. She contends that the Tribunal has overlooked the Entitlement Rules, 2008, which govern attributability and aggravation and no longer permit a blanket presumption in favour of the claimant/officer; and since the RMB has opined the diseases to be NANA, the Tribunal could not have presumed a causal connection between the diseases and the service.

8.2. She states in the facts of this case that the Respondent was discharged on 31.08.2020, and therefore, the Respondent would be governed by the Entitlement Rules, 2008.

8.3. She states that the impugned order incorrectly applies the presumption under the repealed Entitlement Rules, 1982, ignoring the amended regime under Entitlement Rules, 2008. She states that the Entitlement Rules, 2008, have done away with the general presumption to be drawn to ascertain the principle of ‘attributable to or aggravated by military service’.

8.4. She has handed over a copy of the RMB, which is directed to be taken on record.

9. We have heard the learned counsel for the Petitioners and perused the

² 2014 SCC OnLine SC 1761



record. Since the Respondent was discharged from service on 31.08.2020, his claim would be governed by the Entitlement Rules 2008.

10. In another petition, i.e., W.P.(C) 88/2026 titled **Union of India v. 781466 Ex. SGT Krishna Kumar Dwivedi**, decided by this Bench on 06.01.2026, our attention was drawn to the authoritative judgments of the coordinate Benches of this Court passed in W.P.(C) 3545/2025 titled **Union of India v. Ex. Sub Gawas Anil Madso**³ and W.P.(C) 140/2024 titled **Union of India vs. Col. Balbir Singh (Retd.) and other connected matters**⁴, which have conclusively held that even under Entitlement Rules, 2008 an officer, who suffers from a disease at the time of his release and applies for disability pension within fifteen [15] years from release of service, is ordinarily entitled to disability pension and he does not have any onus to prove the said entitlement. The said judgments emphatically hold that even under the Entitlement Rules, 2008, the onus to prove a causal connection between the disability and military service is not on the officer but on the administration. The Entitlement Rules, 2008, however, contemplate that in the event the Medical Board concludes that the disease, though contracted during the tenure of military service, was NANA by military service, it would have to give cogent reasons and identify the cause, other than military service, to which the ailment or disability can be attributed. The said judgments hold that a bald statement in the report of the Medical Board opining 'onset in peace station' would not be sufficient for the military department to deny the claim of disability pension; and rejected the opinions of the Medical Board. The said judgments hold that the burden to prove the disentitlement of pension therefore remains on the military

³ 2025: DHC: 2021-DB



department even under the Entitlement Rules, 2008, and emphasise the significance of the Medical Board giving specific reasons to justify their opinion for denial of this beneficial provision to the officer.

11. On the issue of establishing a causal connection of the disease with factors *other* than military service, we also note that the Supreme Court in its recent judgment in the case of **Bijender Singh vs. Union of India**⁵ has reiterated that it is incumbent upon the Medical Board to furnish reasons for opining that a disease is NANA and the burden to prove the causal connection [as other than military service] is on the Military Establishment.

The requirement of reasons to be recorded by the Medical Board has been succinctly explained by the Supreme Court in another recent decision of **Rajumon T.M. v. Union of India**⁶. The Supreme Court held that merely stating an opinion, such as ‘Constitutional Personality Disorder’, without giving reasons or causative factors to support such an opinion, is an unreasoned medical opinion and thus invalid. The Supreme Court explained that the said opinion of the Medical Board was merely a conclusion and would not qualify as a reasoned opinion for holding the disease/disability to be NANA.

12. In this background of settled law holding that the onus to prove disentitlement remains on the military establishment even vis-à-vis the Entitlement Rules, 2008 regime and the Medical Board must give cogent reasons for denying attributability and aggravation of the disease, we have examined the facts of this case.

13. The Respondent was enrolled in the IAF on 18.06.1983, and the

⁴ 2025: DHC: 5082-DB

⁵ 2025 SCC OnLine SC 895 [Paragraphs 45.1, 46 and 47]

⁶ 2025 SCC OnLine SC 1064 [Paragraphs 25, 26, 32 and 36]



disease Primary Hypertension was discovered in the year 2006 [after 23 years of service], and Diabetes Mellitus Type-2 was discovered in 2014 [after 31 years of service], while he was serving and therefore, the diseases have indisputably arisen during his military service.

14. The Petitioners have raised the issue of non-entitlement of the disability element of the pension, on the ground that RMB has held that the disease(s) is NANA by the military service. The opinion rendered by the RMB is extracted as under: -

(As per Note 1 of Part VII of AFMSF – 16)

DETAILED JUSTIFICATION FOR NANA CASES

1. Why is the disease not related to service as per job profile and place of posting

DISABILITY	DETAILED JUSTIFICATION
1. PRIMARY HYPERTENSION (OLD)(I10.0)(Z09.0)	Onset of the disability was on Jun 06 while serving at Mothala , MFA station and was posted to peace station prior to onset and no close time association with stress & strain of field/HAA/CIOPs & there was no delay in diagnosis or dietary compulsion or Infection/Trauma. Hence NANA as per para 43 of Ch - VI of GMO 2008.
2. TYPE - II DIABETES MELLITUS (OLD) (E11.0)(Z09.0)	Onset of the disability was on May 14 while serving at Thana, Peace station was posted to peace station prior to onset. This is a metabolic disease characterized by hyperglycemia due to absolute/relative deficiency of insulin & there was no delay in diagnosis & no close time association of stress & strain of service in field/HAA/CIOPs area is established. Hence NANA as per para 26 of Ch-VI of GMO 2008.

The RMB has classified the disease(s) as NANA, on the common ground that their onset occurred in a peace area and for diabetes it is additionally stated that the same is a metabolic disease, and hence, the diseases were not attributable to any stress or exigency of military service.

15. The reason 'onset of peace' have been specifically rejected by the coordinate Bench of this Court in **Col. Balbir Singh (Retd.)** (supra)⁷ in the context of the Entitlement Rules, 2008, while similarly granting disability

⁷ At paragraph nos. 66 to 74



pension to the officer suffering therein from Primary Hypertension. The said reason has been expressly held to be an invalid ground for denying attributability to the military service. The Division Bench in the said decision, after taking note of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010, held that the fact that the disability occurred in normal peace conditions is immaterial and by itself is not sufficient to deny disability pension to the officer.

The ground 'onset in peace' is thus an invalid ground and cannot be relied upon by the petitioner to opine NANA.

16. Additionally, with regard to the reasoning of the RMB in opining the disease Diabetes Mellitus Type-2 as a metabolic disease, the Medical Board has failed to enlist the causative factors that lead to the conclusion that the disease is a metabolic disease and not caused by military service. The opinion 'metabolic disease' in the absence of the causative factors is not sufficient to deny attributability as held in **Union of India v. Ex. Sub Gawas Anil Madso**⁸ (supra).

It is pertinent to note that the RMB herein categorically recorded in response to question no. 2 (a) and (b) at page 8 of the RMB, that the disability is not attributable or aggravated to the officer's own negligence or misconduct. Thus, the conclusion in the RMB that the disease is 'metabolic disease' is therefore contradictory and bereft of reasons, required from the Medical Board.

17. No other ground has been cited in the RMB report of the Respondent for opining NANA.

In these facts, since no other causal connection has been found to

⁸ At paragraph nos. 82 to 84.



exist by the RMB, for the disease(s), we agree with the Tribunal that the claim of disability pension has been wrongly rejected by the Military establishment, and the officer has been rightly held entitled to disability pension as it is attributable to/or aggravated by the military services.

18. In view of the aforesaid findings, the Petitioners' challenge to the grant of disability element of pension to the Respondent is without any merit. The Respondent has been rightly held to be entitled to the disability pension under the Entitlement Rules, 2008, by the Tribunal in the impugned order.

19. We also note that in exercise of the certiorari jurisdiction of this Court over the decision of the Tribunal, the limited parameters of the jurisdiction are delineated in the judgment of **Syed Yakoob v. K.S. Radhakrishnan**⁹. We have examined the impugned order within the said parameters and find no ground to interfere with the impugned order.

20. Additionally, we note that the impugned order is dated 11.04.2023, and the petition has been filed after more than three [3] years, without any explanation for such a delay. The Petitioners were obligated to comply with the impugned order of the Tribunal within three [3] months, and it appears from the record that the Petitioners have not complied with the said order. The Petitioners ought to have approached this Court immediately and cannot elect to sleep over compliance with the impugned order of the Tribunal. Such conduct of the Petitioners shows abject disregard for the legal process. We hold that the filing of this petition is also grossly barred by delay and laches, and ought to be dismissed on this ground alone. Nevertheless, we have decided the petition on merits to avoid any further delay by the

⁹ 1963 SCC OnLine SC 24 [Paragraph 7 and 8]



Petitioners in complying with the impugned order.

21. We therefore find no merit in this petition; the petition is dismissed.

Pending application[s] if any is disposed of. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

APRIL 1, 2026/aa