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

% *Date of Decision : 06.01.2026*

\+ W.P.(C) 57/2026 & CM APPL. 296-297/2026

UNION OF INDIA & ORS. .....Petitioners

Through: Mr. Raj Kumar, CGSC
Sgt. Mritunjay and Sgt. Padam Charan, DAV, Legal Cell, Air Force

versus

AIR CMDE RAGHVENDRA KUMAR TRIPATHI RETD .....Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

1. This petition lays a challenge to the order dated 18.10.2024 passed by the Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter, 'Tribunal'), whereby the O.A. 1675/2025 titled **Air Cmde Raghvendra Kumar Tripathi (Retd) v. Union of India and Ors.,** filed by the respondent herein has been allowed by stating reasons in paragraphs 6 to 10, which reads as under: -

> *"6. On the careful perusal of the materials available on record and also the submissions made on behalf of the parties, we are of the view that it is not in dispute that the extent of disability was assessed to be above 20% which is the bare minimum for grant of disability element of pension in terms of Regulation 153 of the Pension Regulations for the Air Force, 1961 (Part-1). The only question that arises for consideration in the above backdrop, is whether disability suffered by the applicant was attributable to or aggravated by Military Service?*
> *7. The issue of attributability of a disease is no longer* ***res integra*** *in view of the verdict of the Hon'ble Apex Court in* ***Dharamvir Singh*** *(supra), wherein, it is clearly spelt out that any disease contracted*

during service is presumed to be attributable to Military Service, if there is no record of any ailment at the time of commission into the Military Service.

8. Furthermore it cannot be overlooked that the onset of the disability was in May 2014; after commission of the applicant on 16.02.1987, i.e., after 27 years of service in the Indian Air Force and in the 12th posting of the applicant. The cumulative stress and strain that the applicant would have undergone during this period of strenuous military service cannot be overlooked, especially as the medical case sheet qua the applicant does not bring forth any contributory factors from the side of the applicant.

9. Regarding broad banding benefits, we find that the Hon'ble Supreme Court in its order dated 10.12.2014 in ***Union of India*** *vs.* ***Ram Avtar****, (Civil Appeal No. 418 of 2012) and connected cases, has observed that individuals similarly placed as the applicant are entitled to rounding off the disability element of pension. We also find that the Government of India vide its letter No. F.No.3(11)2010-D (Pen/Legal) Pt V, Ministry of Defence dated 18.04.2016 has issued instructions for implementation of the Hon'ble Supreme Court order dated 10.12.2014 (supra).*

10. Applying the above parameters to the case at hand, we are of the view that the applicant has been discharged from service in low medical category on account of a medical disease/disability and the disability must be presumed to have arisen in the course of service which must, in the absence of any reason recorded by the Medical Board, be presumed to have been attributable to or aggravated by military service.

11. Therefore, in view of our analysis, the OA 1675/2020 is allowed and respondents are directed to grant the benefit of the disability element of pension @ 30% for life (for CAD STEAWMI SVD-POST PCI to LAD DES @ 30% for life), rounded off to 50% in view of the judgment of the Hon'ble Apex Court in Union of India Vs. Ram Avtar (supra) from the date of discharge, i.e., 31.01.2020.

12. The arrears shall be disbursed to the applicant within three months of receipt of the copy of this order failing which they shall earn interest @ 6% p.a. till the actual date of payment,"

2. The claim of the respondent before the Tribunal was regarding the grant of disability element of pension w.e.f. the date of his retirement. The respondent was commissioned in the Air Force on 16.02.1987. He was

discharged from service on 31.01.2020 after 32 years, 11 months and 16 days of qualifying service. It was the case of the respondent before Tribunal that in the Release Medical Board (hereinafter, 'RMB') conducted prior to his retirement, he was found to be suffering from disability, namely ID (i) CAD STEAWMI SVD-POST PCI to LAD DES at 30% and (ii) Pre-Diabetes at 15-19% for life. As per the RMB, the composite assessment for disabilities has been recorded at 40% for life, and his medical category was permanently downgraded to A4G3(P) for the said disabilities.

3. The petitioners have primarily raised the contention that the Tribunal has wrongly applied the principles governing Entitlement Rules for Casualty Pensionary Awards, 1982 ('1982 Entitlement Rules', for short) and has failed to take into consideration the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 ('2008 Entitlement Rules', for short). The petitioners submit that thus, the Tribunal erred in allowing the respondent's claim for disability pension despite the opinion of the Medical Board that the onset of the disease was in the peace station.

4. Having perused the opinion of the RMB, we are unable to agree with the submission made by the learned counsel for the petitioners that the Tribunal committed any error in granting relief to this respondent.

5. In 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**[1] and W.P.(C) 140/2024 titled **Union of India**

[1] 2025: DHC: 2021-DB

vs. Col. Balbir Singh (Retd.) and other connected matters[2], which have conclusively held that even under 2008 Entitlement Rules, an officer who suffers from a disease at the time of his release and applies for disability pension within 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 2008 Entitlement Rules, however, contemplate that in the event the Medical Board concludes that the disease though contracted during the tenure of military service, was not attributable to or aggravated 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 judgments hold that a bald statement in the report would not be sufficient, for the military department for denying the claim of disability pension. The burden to prove the disentitlement therefore remains on the military department even under 2008 Entitlement Rules and the aforesaid judgments emphasize on the significance of the Medical Board giving specific reasons for denial of this beneficial provision. The judgments hold that the onus to prove a casual connection between the disability and military service is not on the officer but on the administration.

6. We for benefit also note that the Supreme Court in its recent opinion in the case of **Bijender Singh vs. Union of India and Other(s)**[3], has in paragraphs 45.1, 46 and 47, held as under:

> *"**45.1.** Thus, this Court held that essence of the Rules is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into the service if there is no note or record to the contrary made at the time of such entry. In the event of*

[2] 2025: DHC: 5082-DB
[3] 2025 SCC OnLine SC 895

subsequent discharge from service on medical ground, any deterioration in health would be presumed to be due to military service. The burden would be on the employer to rebut the presumption that the disability suffered by the member was neither attributable to nor aggravated by military service. If the Medical Board is of the opinion that the disease suffered by the member could not have been detected at the time of entry into service, the Medical Board has to give reasons for saying so. This Court highlighted that the provision for payment of disability pension is a beneficial one which ought to be interpreted liberally. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that upon proper physical and other tests, the member was found fit to serve in the army would give rise to a presumption that he was disease free at the time of his entry into service. For the employer to say that such a disease was neither attributable to nor aggravated by military service, the least that is required to be done is to ***furnish reasons*** *for taking such a view.*

…

46. *Referring back to the impugned order dated 26.02.2016, we find that the Tribunal simply went by the remarks of the Invaliding Medical Board and Re-Survey Medical Boards to hold that since the disability of the appellant was less than 20%, he would not be entitled to the disability element of the disability pension. Tribunal did not examine the issue as to whether the disability was attributable to or aggravated by military service. In the instant case neither has it been mentioned by the Invaliding Medical Board nor by the Re-Survey Medical Boards that the disease for which the appellant was invalided out of service could not be detected at the time of entry into military service. As a matter of fact, the Invaliding Medical Board was quite categorical that no disability of the appellant existed before entering service.* ***As would be evident from the aforesaid decisions of this Court, the law has by now crystalized that if there is no note or report of the Medical Board at the time of entry into service that the member suffered from any particular disease, the presumption would be that the member got afflicted by the said disease because of military service. Therefore the burden of proving that the disease is not attributable to or aggravated by military service rest entirely on the employer****. Further, any disease or disability for which a member of the armed forces is invalided out of service would have to be assumed to be above 20% and attract grant of 50% disability pension.*

47. Thus having regard to the discussions made above, we are of the

considered view that the impugned orders of the Tribunal are wholly unsustainable in law. That being the position, impugned orders dated 22.01.2018 and 26.02.2016 are hereby set aside. Consequently, respondents are directed to grant the disability element of disability pension to the appellant at the rate of 50% with effect from 01.01.1996 onwards for life. The arrears shall carry interest at the rate of 6% per annum till payment. The above directions shall be carried out by the respondents within three months from today."

(Emphasis Supplied)

7. In this background of settled law, we have examined the facts of the case. The Tribunal has granted disability element of pension for coronary artery disease assessed at 30% for life and rounded off to 50%. The RMB was held on 02.09.2019 and it concluded the following: -

S.no	Disability	Attributable/Aggravated	Reasons	%of disability	Composite assessment	Net assessment
1	Coronary Artery Disease STEA WM SVD POST PCI to LAD	NANA	Onset In May 2014 in peace. Prior to onset individual served in peace station only. There was no delay in diagnosis/ treatment no close time association With stress/ strain or dietary compulsion of Field/CI Ops/HAA. Hence NANA as per Charter of duties dated 12 Jun 2014.	30% Life Long	40% for Life Long	NIL
2	Pre-Diabetes	NANA	A metabolic and Life Style disorder with onset in July 2019 while posted in peace. Prior to onset individual served in peace station only. There is no delay In diagnosis and treatment. There is no close time association with stress/ strain of field area/HAA/CI Ops Military Service, hence, NANA in terms of Para 26 of GMO 2002 amended 2008.	15-19% Life Long		

8. The petitioners do not dispute the disability of the respondent. The petitioner was enrolled in service in 1987 and he was diagnosed with the aforesaid disease in May, 2014 after more than 27 years of service. The Medical Board records specifically that the disease is not constitutional or

hereditary in the case of the petitioner. It further records that the disease is not attributable to the petitioner due to his own negligence or misconduct. It was thus, the obligation of the Medical Board to ascertain and identify the cause other than military service, to which the disease can be attributed.

9. The Medical Board has simply opined that the disease is not attributable to military service as its onset was in peace station. This reason has been negated the coordinate Bench of this Court in the case of **Col. Balbir Singh (Retd.)** ***(supra)***, which has held that this is not a sufficient ground to deny the stress of military service, which can lead to development of diseases such as Primary Hypertension Ischaemic Heart Disease, etc. The relevant paragraphs 64, 65, 71, 79 & 80 of the said judgment reads as under:

> *"64. From the above-extracted paragraphs of the GMO, 2008, it is evident that the GMO recognises Ischaemic Heart Disease (IHD) as a spectrum encompassing asymptomatic IHD, chronic stable angina, unstable angina, acute myocardial infarction, and sudden cardiac death, all of which arise as a result of atherosclerosis. Prolonged stress and strain accelerates atherosclerosis by triggering neurohormonal mechanisms and autonomic storms. The medical understanding of IHD, as extracted from the GMO, 2008, highlights that the challenges of service in field and high-altitude areas, apart from involving physical hardship, also encompass significant mental stressors. The solitude and prolonged separation from family create an environment of persistent mental strain, often compounded by other additional burdens such as concerns regarding the security of one's family and familial responsibilities. Furthermore, the constraints of compulsory group living inherently curtail personal freedom of activity.*
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> *65. Furthermore, from Paragraph 43 of the GMO, 2008, it is evident that cases of hypertension may arise due to the differing individual responses to stressful situations and can occur after prolonged and frequent spells of service in the field, high altitude, or operational areas.*
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> *…*

> *71. Moreover, it must be noted that lifestyle varies from individual to individual. Therefore, a mere statement that a disease is a lifestyle disorder cannot be a sufficient reason to deny the grant of Disability Pension,* ***unless*** *the Medical Board has duly examined and recorded particulars relevant to the individual concerned.*
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> ...
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> *79. Considering all the factors together, it is evident that the mere fact that the onset of the disease occurred during a peace area posting is not sufficient to negate the cumulative stress of military service, which can contribute to the development of diseases such as Primary Hypertension, IHD etc.* ***The RMB's opinion that the onset took place in a peace station and therefore the disease is not attributable to or aggravated by military service cannot be sustained****.*
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> ...
>
> (Emphasis Supplied)

10. We therefore find no error in the impugned order of the Tribunal. The respondent has therefore, been rightly held entitled to disability element of pension as per 2008 Entitlement Rules and the report of the Medical Board fails to give any cogent reasons for denying him the said entitlement. The Medical Board has failed to ascertain and identify the cause, other than military service, to which the disease can be attributed.

11. We therefore find no merit in this petition; the petition is dismissed along with pending applications.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JANUARY 06, 2026/msh/MG