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

% *Date of Decision : 06.01.2026*

\+ W.P.(C) 68/2026 & CM APPL. 320-321/2026

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

Through: Ms. Sunanda Shukla, SPC with Mr. Jagdish Chandra Solanki and Mr. Siddharth Bajaj, Advs.
Sgt. Mritunjay and Sgt. Padam Charan, DAV, Legal Cell, Air Force

versus

802855 NC(E) PREM SINGH .....Respondent

Through: None

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

V. KAMESWAR RAO , J. (ORAL)

CM APPL. 321/2026 (Exemption)

1. Allowed, subject to just exceptions.

2. The application is disposed of.

W.P.(C) 68/2026 & CM APPL. 320/2026

3. This petition under Article 226 of the Constitution of India lays a challenge to the order dated 22.05.2023 passed by the Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter, 'Tribunal') in O.A. 1085/2020, whereby the Tribunal has allowed the O.A. filed by the respondent herein by stating in paragraphs 7 and 8 as under:

> *"7. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is entitled for disability element of pension in respect of disability 'Primary*

Hypertension'. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case in the case of ***Union of India Vs. Ram Avtar*** *(Civil Appeal No. 418/2012), decided on 10.12.2014.*

8. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of receipt of copy of this order and the amount of arrears shall be paid by the respondents, failing which the applicant will be entitled for interest @6% pa. from the date of receipt of copy of the order ty the respondents."

4. The facts to be noted are that the respondent joined the Indian Air Force on 15.02.2008. He was released from service on attaining the age of superannuation on his own request with permanent low medical category A4G2(P) for the reason that he was suffering from Primary Hypertension at 30%. The Release Medical Board (RMB) was held on 31.10.2015 and 14.12.2015 wherein RMB opined that the respondent has been suffering from Primary Hypertension at 30% for life. The RMB also held that the onset of disability was neither attributable nor aggravated by military service.

5. The only submission made by the learned counsel for the petitioners is that the respondent having retired in the normal course on attaining the age of superannuation i.e., 57 years, the respondent was not entitled to the relief as granted to him by the Tribunal. His submission is also that the Tribunal has wrongly applied the principle governing the Entitlement Rules for Casualty Pensionary Awards, 1982 (1982 Entitlement Rules) and has failed to take into consideration the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 (2008 Entitlement

Rules). In substance, the plea of the learned counsel for the petitioners is that the Tribunal has erred in allowing the respondent's claim for disability pension despite the opinion of the RMB that the disease was neither attributable nor aggravated by the military service.

6. We are unable to agree with the submission made by the learned counsel for the petitioners.

7. The Tribunal is justified in granting the relief by referring to the judgment of the Supreme Court in ***Dharamvir Singh v. Union of India and Ors. (supra).*** In any case, the issue with regard to the interpretation of 2008 Entitlement Rules has been settled by this Court and also the Supreme Court.

8. 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 the case of ***Union of India v. Ex. Sub Gawas Anil Madso, 2025:DHC:2021-DB*** and ***Union of India v. Col. Balbir Singh (Retd.) and other connected matters***, ***2025:DHC:5082-DB*** 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 the 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 in 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.

9. We also note that the Supreme Court in its recent opinion in the case of ***Bijender Singh vs. Union of India and Others (s), 2025 SCC OnLine SC 895,*** has in paragraphs 45.1, 46 and 47, held as under:

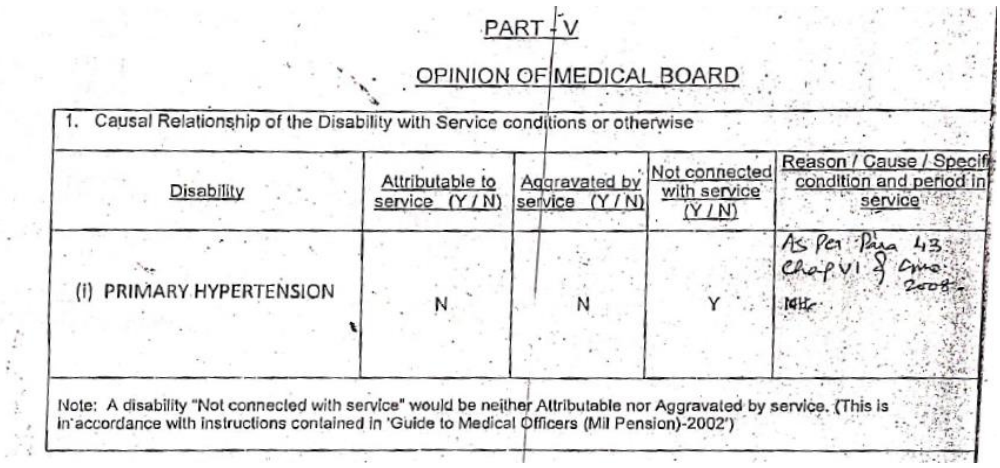
> *"**45.1.** Thus, this Court held that essence of the Rules is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into the service if there is no note or record to the contrary made at the time of such entry. In the event of subsequent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

10. Keeping in view the aforesaid position of law, we have examined the facts of the case. The Tribunal has granted disability element of pension for

Primary Hypertension at 30% for life, rounded off to 50%. The RMB in Part V, of its report has opined as under:-



PART - V

OPINION OF MEDICAL BOARD

1. Causal Relationship of the Disability with Service conditions or otherwise

Disability	Attributable to service (Y / N)	Aggravated by service (Y / N)	Not connected with service (Y / N)	Reason / Cause / Specific condition and period in service
(i) PRIMARY HYPERTENSION	N	N	Y	As per Para 43 Chap VI of GMO 2008

Note: A disability "Not connected with service" would be neither Attributable nor Aggravated by service. (This is in accordance with instructions contained in 'Guide to Medical Officers (Mil Pension)-2002')

11. The petitioners do not dispute the disability of the respondent. The respondent was enrolled in Air Force on 15.02.1980. The origin of the disability of Primary Hypertension as seen from the medical opinion is since January 2003 when the respondent was in service. The opinion only says *'Not connected with service' would be neither attributable nor aggravated by service*.

12. The Coordinate Bench of this Court in the case of ***Union of India v. Col. Balbir Singh (Retd.) and other connected matters, 2025:DHC:5082-DB*** has held that such an opinion is not sufficient reason to deny the disability pension. The relevant paragraphs 64,65, 71 and 79 are reproduced 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.

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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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****.*

…

(Emphasis Supplied)

13. Also in the absence of reasons for acquiring the disease or disability for non-military reasons, the Tribunal was justified in allowing the O.A. filed by the respondent therein for the reasons, which we have already reproduced above.

14. In view of the above position of law, we are of the view that the present writ petition is without any merit and the same is liable to be dismissed. We order accordingly. The pending application is also dismissed as having become infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 06, 2026/msh