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

% *Date of Decision :07.01.2026*

\+ **W.P.(C) 130/2026, CM APPL. 647/2026 & CM APPL. 648/2026**

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

Through: Major Anish Muralidhar (Army)

versus

1481129 P EX HAV RAM KUMAR .....Respondent

Through:

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

MANMEET PRITAM SINGH ARORA, J. (*ORAL*)

CM APPL. 648/2026

1. Allowed, subject to just exceptions.

2. The application is disposed of.

W.P.(C) 130/2026 and CM APPL. 647/2026

3. This petition under Article 226 of the Constitution of India lays a challenge to the order dated 12.07.2023 ('impugned order') passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in O.A. 1040/2019 titled **Ex. HAV Ram Kumar v. Union of India and Others,** wherein the respondent has been granted the benefit of the disability element of pension at 30% for Primary Hypertension, rounded off to 50% for life.

4. The facts to be noted are the respondent was enrolled into the Indian

Army on 06.02.1987[1] and was discharged from the services on 31.03.2008 under Rule 13(3) item III(v) of the Army Rules, 1954 before completion of terms of engagement within low Medical Category 'S1H1A1P2E1' due to diagnosis of Primary Hypertension. The Release Medical Board ('RMB', for short) proceedings were held on 30.01.2008, wherein the Medical Board opined that the respondent has disability of Primary Hypertension at 30% for life and further assessed that the aforesaid disability was neither attributable nor aggravated by military service. It was further opined in the relevant column Part V for recording the cause that the said disease was of an unknown *aetiology*.

5. The respondent's claim for disability pension was rejected by the petitioner on the basis of the said report and therefore, the respondent approached the Tribunal by way of filing O.A. 1040/2019 praying for grant of disability element of pension. The respondent claimed before the Tribunal for the grant of disability element of the pension from the date of release (i.e., 01.04.2009) on the ground that the respondent had developed the disease of Primary Hypertension during the course of his service and in that sense, the disease is attributable to the military service.

6. By impugned order dated 12.07.2023, the Tribunal allowed the respondent's claim and held that the respondent is entitled to disability element of pension in respect of disability Primary Hypertension at 30% rounded off to 50% for life. The Tribunal referred to the judgments of the Supreme Court in **Dharamvir Singh v. Union of India and Ors**.[2], and other judgments for granting the relief as claimed by the respondent herein.

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[1] In the petition, it is stated that respondent was commissioned in the Army on 06.02.1979; however in the OA before the Tribunal, the date recorded is 06.02.1987.

[2] 2013 (7) SCC 361

7. The only submission made by the learned counsel for the petitioner 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 ('1982 Entitlement Rules', for short), whereas the case of the respondent needs to be considered under the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 ('2008 Entitlement Rules', for short).

The petitioner contends that the Tribunal has overlooked 2008 Entitlement Rules, which govern attributability/aggravation, and no longer permit a blanket presumption in favour of the claimant. He states in the facts of this case, Respondent was discharged on 31.03.2008 and therefore, the respondent would be governed by 2008 Entitlement Rules. He states that the impugned order incorrectly applies the presumption under the repealed 1982 Entitlement Rules, ignoring the amended regime under 2008 Entitlement Rules. He states that 2008 Entitlement Rules have done away with the general presumption to be drawn in order to ascertain the principle of '*attributable to or aggravated by military service*'.

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

9. 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[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 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.

10. We for benefit also note that the Supreme Court in its recent opinion in the case of **Bijender Singh vs. Union of India and Others**[5]**,** wherein at paragraphs 45.1, 46 and 47, the Supreme Court 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*

[3] 2025: DHC: 2021-DB
[4] 2025: DHC: 5082-DB
[5] 2025 SCC OnLine SC 895

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.*

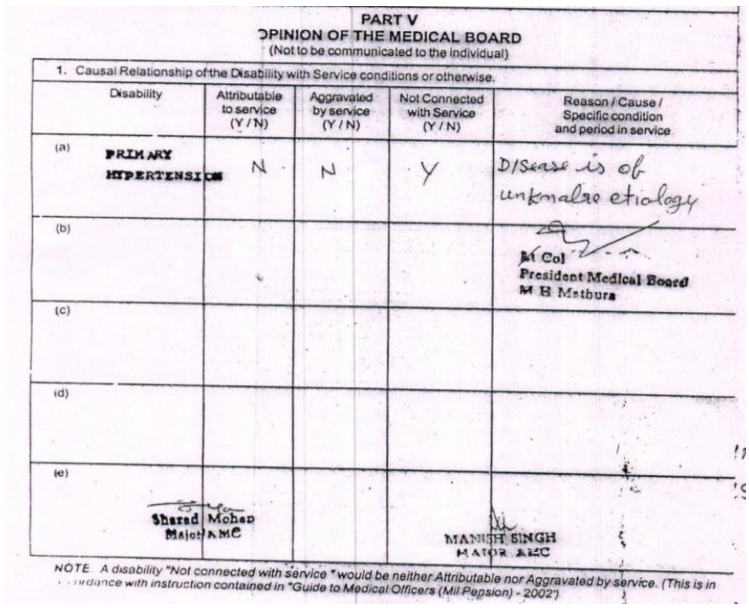
46. *Referring back to the impugned order dated 26.02.2016, we find that the Tribunal simply went by the remarks of the Invaliding Medical Board and Re-Survey Medical Boards to hold that since the disability of the appellant was less than 20%, he would not be entitled to the disability element of the 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."

(Emphasis Supplied)

11. In this background of law settled vis-à-vis 2008 Entitlement Rules we have examined the facts of this case.

The Tribunal has held that the respondent is entitled to disability element of pension in respect of his disability i.e., Primary Hypertension assessed at 30% rounded off to 50% for life. The petitioner does not dispute the disability of the respondent, which is borne out from the medical record. The petitioner has only raised the issue of non-entitlement of the disability element of the pension on the ground that the Medical Board has held that the diseases are not attributable to or aggravated by military service. The opinion rendered by the Medical Board is extracted hereinbelow:



PART V

OPINION OF THE MEDICAL BOARD

(Not to be communicated to the individual)

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
(a) PRIMARY HYPERTENSION	N	N	Y	Disease is of unknown etiology
(b)				Lt Col President Medical Board M H Mathura
(c)				
(d)				
(e) Sharad Mohan Major AMC			MANISH SINGH MAJOR AMC	

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

12. The respondent was enrolled in the Indian Air Force on 06.02.1987 and the disease was discovered on 25.11.2005, the time when the respondent was serving and therefore the disease has indisputably arisen during his military service. The Medical Board has merely recorded that the disease was of unknown *aetiology*[6], which means that the Medical Board itself has been unable to determine the cause of the disease. The Medical Board has thus not ascertained and identified a cause, other than military service to which the disease can be attributed. If no other casual connection for the disease has been found to exist by the Medical Board, the plea of disability pension cannot be rejected by the Military establishment and the officer would be entitled to disability pension. (Re: **Dropadi Tripathi v. Union of India**[7])

13. At this juncture it would be apposite to refer to the judgment of the coordinate Bench of this Court in **Union of India v. Col. Balbir Singh (Retd.)** (supra), wherein the Court emphasized on the significance of the Release Medical Board recording clear and cogent reasons for denying the entitlement of disability pension to the officer. The relevant paragraphs of the said judgment are as under: -

> "*50. In this regard, it is further relevant to note the observations of the Supreme Court in the* ***Rajumon T.M. v. Union of India &Ors****., 2025 SCC OnLine SC 1064, the relevant portions of which reads as under:*
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> ……
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> ……
>
> *25.* ***We, therefore, hold that if any action is taken by the authority for the discharge of a serviceman and the serviceman is denied disability pension on the basis of a report of the Medical Board wherein no reasons have been disclosed for the***

[6] The definition of aetiology as per Shorter Oxford English Dictionary Sixth Edition Volume 1. A-M at page 36 is the causation of disease

[7] 2025: DHC: 8709-DB at paragraphs 13 and 14

opinion so given, such an action of the authority will be unsustainable in law*."*

(emphasis supplied)

51. In view of the above, it is essential for the Medical Boards to record and specify the reasons for their opinion as to whether the disability is to be treated as attributable to or aggravated by military service, especially when the pensionary benefits of the Force personnel are at stake.

……..

53. Particularly in this milieu, it is of paramount importance that Medical Boards record clear and cogent reasons in support of their medical opinions. Such reasoning would not only enhance transparency but also assist the Competent Authority in adjudicating these matters with greater precision, ensuring that no prejudice is caused to either party.

……..

56. It must always be kept in view that the Armed Forces personnel, in defending this great nation from external threats, have to perform their duties in most harsh and inhuman weather and conditions, be it on far-flung corner of land, in terrains and atmosphere where limits of mans survival are tested, or in air or water, where again surviving each day is a challenge, away from the luxury of family life and comforts. It is, therefore, incumbent upon the RMB to furnish cogent and well-reasoned justification for their conclusions that the disease/disability suffered by the personnel ***cannot*** *be said to be attributable to or aggravated by such service conditions.* ***This onus is not discharged by the RMB by simply relying on when such disability/disease is noticed first****.*

……..

77. ***Thus, in view of the above, the RMB must not resort to a vague and stereotyped approach but should engage in a comprehensive, logical, and rational analysis of the service and medical records of the personnel, and must record well-reasoned findings while discharging the onus placed upon it****."*

(Emphasis Supplied)

14. In view of the aforesaid findings, the Petitioner's challenge to the grant of disability pension is without any merits. As held above, the report of the Medical Board fails to give any cogent reasons for opining that the

disease is not attributable to the military service and the respondent has therefore, been rightly held entitled to disability element of pension as per 2008 Entitlement Rules.

15. We therefore find no merit in this petition; the petition is dismissed. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JANUARY 07, 2026/ MG