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

% *Date of Decision : 08.01.2026*

\+ **W.P.(C) 217/2026, CM APPL. 981/2026 & CM APPL. 982/2026**

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

Through: Mr. Shashank Dixit, CGSC and Mr. Kunal Raj, Adv.

versus

(639571) EX MWO SATYAWAN BHARDWAJ .....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. 982/2026

1. Allowed, subject to just exceptions.

2. The application is disposed of.

W.P.(C) 217/2026 and CM APPL. 981/2026

3. This petition under Article 226 of the Constitution of India lays the challenge to the order dated 10.05.2023 ('impugned order') passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in O.A. 1257/2022 titled (639571) **Ex. MWO Satyawan Bhardwaj v. Union of India and Others,** wherein the respondent has been given the benefit of disability element of pension at 20% for life for the disability of Diabetes Mellitus Type II (old), rounded off to 50% from the date of

retirement i.e. 31.07.2019 with 6% interest p.a. till the date of payment.

4. The facts to be noted are the respondent was enrolled in the Indian Air Force on 21.04.1981. He retired from service on 31.07.2019 under the clause "On Attaining the age of superannuation". The Release Medical Board ('RMB', for short) proceedings were held on 20.09.2018, wherein the Medical Board assessed respondent's disability of Diabetes Mellitus Type II (Old) for life at 20% for life. It was opined that the aforesaid disability was neither attributable nor aggravated by military service.

5. The respondent's claim for disability pension was rejected by the petitioner vide letter dated 11.02.2019 on the basis of the said report and the same was conveyed to the respondent vide letter dated 31.05.2019. Therefore, the respondent approached the Tribunal by filing O.A. 1257/2022 praying for grant of disability element of pension. The respondent's claim before the Tribunal for disability element of pension from the date of release was (i.e., 01.08.2019) on the ground that the respondent had developed the disease of Diabetes Mellitus Type II (Old) during the course of his service and in that sense, the disease is attributable to the military service.

6. By impugned order dated 10.05.2023, the Tribunal allowed the respondent's claim and held that the respondent is entitled to disability element of pension in respect of disability of Diabetes Mellitus Type II (Old) compositely at 20% rounded off to 50% for life from the date of his retirement i.e., 31.07.2019. The Tribunal referred 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] for granting the relief as claimed by the

[1] 2013 (7) SCC 361
[2] 2014 SCC OnLine SC 1761

respondent herein.

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 counsel for the petitioners contend that the Tribunal has overlooked 2008 Entitlement Rules, which govern attributability/aggravation. It no longer permits a blanket presumption in favour of the claimant. He states in the facts of this case, Respondent was discharged on 31.07.2019 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 petitioners that the Tribunal committed error in granting relief to the 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, is ordinarily entitled to disability pension and he does not have 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], has in paragraphs 45.1, 46 and 47, held as under:

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

*"**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."

(Emphasis Supplied)

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

12. The Tribunal has held that the respondent is entitled to disability element of pension in respect of his disability of Diabetes Mellitus Type II (Old) compositely assessed at 20% rounded off to 50% for life. The petitioners do not dispute the disability of the respondent, which is borne out from the medical record. The petitioners have 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 disease is neither attributable to nor

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. Casual 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
Type-II DM (Old) Z 09 (E-11)	**No**	**No**	**Yes**	**Life style disorder, Onset of the disabilities is at peace station (Gandhinagar), there was no close time association to Field/CI Ops/HAA. No delay in diagnosis & delay in treatment. Hence the disabilities are not aggravated to service vide Para 26 chapter VI of GMO (Mil Pen)-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').

13. The respondent was enrolled in the Indian Air Force on 21.04.1981 and the disease was discovered when he was serving at peace station (Gandhinagar) and therefore the disease has indisputably arisen during his military service. The Medical Board has recorded the disease as a lifestyle disorder with the onset at a peace station. This reason ascribed by the board has been specifically rejected by the coordinate Benches in both **Ex. Sub Gawas Anil Madso**[6] (supra) and **Col. Balbir Singh (Retd.)**[7] (supra).

14. The Medical Board has 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**[8])

[6] At paragraph 82 to 84
[7] At paragraph 71
[8] 2025: DHC: 8709-DB at paragraphs 13 and 14

15. The coordinate Bench in **Ex. Sub Gawas Anil Madso** (supra), held that in the matters pertaining to Diabetes Mellitus Type II; wherein the Medical Board has opined that the disease is not attributable to or aggravated by military service, solely based on the fact that the onset of the said disability was at the peace station as unsustainable. The relevant paragraphs of the said judgment reads as under: -

> "*82. In the facts of the present case, we do not deem necessary to state anything further. We have already emphasised the salient features of the report of the RMB in the case of the respondent. There is candid acknowledgement, in the Report, of the fact that the Type II DM, from which the Respondent suffered, was contracted 30 years after the Respondent had entered military service. The fact that the onset of the disease was during the course of military service of the Respondent is not, therefore, in dispute. Beyond this, there is precious little, in the Report of the RMB, to indicate that the military service of the respondent was not the cause of the disease. Inasmuch as the claim of the Respondent was not preferred more than 15 years after his discharge, the onus to establish this fact continues to remain on the RMB, even under Rule 7 of the 2008 Entitlement Rules. A mere statement that the onset of the disease was during a peace posting is clearly insufficient to discharge this onus. The judgments of the Supreme Court are consistent on the fact that the report of the RMB is required to be detailed, speaking, and supported by sufficient cogent reasons. The RMB Report, in the case of the Respondent, clearly does satisfy these conditions.*
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> *83. While we are not doctors, it is a matter of common knowledge that Diabetes is a disease which can be caused, and exacerbated, by stressful living conditions. The fact that the onset of the disease might have been while the officer was on a peace posting cannot, therefore, be determinative of the issue of whether the disease was, was not, attributable to military service. In such a case, the RMB has a greater responsibility to identify the cause of the disease, so that a clear case, dissociating the disease and its onset, from the military service of the claimant officer, is established.*
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> *84. This would be all the more so when, as in the case as the present, the disease has manifested 3 decades after the officer has been enrolled into military service.* ***By certifying that the disease is not owing to any negligence on the part of the officer, there is an***

implied acknowledgement that the Respondent cannot be said to be responsible for the Type II DM from which he suffers. It was for the RMB, in such circumstances, to identify the cause of the disease, in its report. This, the RMB has, in the present case, clearly failed to do*."*

(Emphasis Supplied)

16. Similarly, the opinion of the Medical Board that the disease is a lifestyle disorder and hence not attributable to military service is also a reason specifically rejected by the coordinate Bench in **Col. Balbir Singh (Retd.)** (supra) at paragraph 71, which reads as under:

> *"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."*

17. In view of the aforesaid findings, the petitioner's challenge to the grant of disability pension is without merit. As held above, the report of the Medical Board fails to give any cogent reasons to hold the disease is not attributable to the military service. The respondent has therefore, been rightly held entitled to disability element of pension as per 2008 Entitlement Rules.

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

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JANUARY 08, 2026/hp