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

% *Date of Decision : 16.03.2026*

\+ W.P.(C) 3303/2026 CM APPL. 15980-15982/2026
UNION OF INDIA & ANR.

.....Petitioner

Through: Ms. Shagun Shahi Chugh, Mr. Varun Chugh and Ms. Ayushi Agarwal, Advs.
Major Kanika Sharma Army

versus

SL-3179K LT COL CHATER SINGH (RETD.)

.....Respondent

Through: Mr. VS Kadian and Mr. Sukhbir Singh, 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. 15981/2026 (for exemption)

1. Allowed, subject to just exceptions.

2. The application is disposed of.

W.P.(C) 3303/2026

3. This is a writ petition filed under Article 226 of the Constitution of India against the order dated 12.05.2023 [‘impugned order’] passed by the Armed Forces Tribunal, Principal Bench, New Delhi [‘Tribunal’] in Original Application [‘O.A.’] No. 2025/2018 titled as **Lt Col Chater Singh (Retd) v. Union of India & Ors.**, wherein the Respondent has been granted the

benefit of the disability element of pension for the disability of Non -Insulin Dependent Diabetes Mellitus (E-11, Z-09) [‘NIDDM’] assessed at 30% for life, rounded off to 50% for life, from the date of his discharge from the service.

4. The facts giving rise to the present petition are that the Respondent was discharged from the service on 31.05.2005 on attaining the age of superannuation.

5. The Release Medical Board [‘RMB’] held in December 2004 assessed the disability i.e., NIDDM at 30% for life. The RMB opined that the disability is metabolic disorder therefore the disability was neither attributable to nor aggravated [‘NANA’] by the military service.

6. Respondent filed his initial disability claim, which was rejected by the administrative authority on 27.12.2005, by holding that the disability was NANA and hence did not satisfy the mandatory conditions under Regulation 53 of the Pension Regulations for grant of disability pension.

No statutory appeal or representation was filed by the Respondent for more than 12 years. The competitive authority rejected the first appeal vide order dated 26.10.2017[1], citing an unexplained delay of 12 years in filling the appeal.

7. Respondent filed O.A. No. 980 of 2018 before the Tribunal challenging the rejection order dated 26.10.2017 and seeking the grant of disability element of pension.

Pursuant to the directions of the Tribunal, the matter was reconsidered by the Appellate Committee on First Appeals (ACFA), which by a speaking

[1] Page 52 of the paper book

order dated 28.09.2018[2] again rejected the claim, reaffirming that the disability was a 'metabolic disorder' and the 'onset of the disability was at peace station' therefore it is unrelated to the military services. Relevant portion of the order dated 28.09.2018 is reproduced herein:

FIRST APPEAL AGAINST REJECTION OF DISABILITY PENSION CLAIM IN RESPECT OF SL-3179 LT COL CHATER SINGH (SUPERANNUATION) : REJECTION

1. The claimant's appeal dated 28 May 2018 on the above subject has been carefully considered by the Appellate committee on First Appeals (ACFA) in the light of relevant rules and administrative/medical provision and **has not been approved** due to reasons(s) indicated below :-

S No	Appeal	Reason(s)
(i)	NIDDM	ID is a metabolic disorder with strong genetic preponderance and is per se not attributable to mil service. In the instant case, Onset of ID was in a peace station. Hence, the ID is conceded as neither attributable to nor aggravated by mil service in terms of Para 26, Chapter VI, GMO 2002/2008 and ER-2008.

8. Being aggrieved by the rejection of the claim of disability pension by ACFA, the Respondent filed O.A. No. 2025/2018 before the Tribunal seeking the grant of disability element of pension along with rounding off benefits.

By the impugned order dated 12.05.2023, the Tribunal after referring to the judgments of the Supreme Court in **Dharamvir Singh v. Union of India and Ors.[3], Commander Rakesh Pande v Union of India & Ors[4], Union of India & Ors v Rajbir Singh[5]** and **Union of India v Ram Avtar**[6] granted the relief of disability pension to the Respondent at 30% rounded to 50% for life from the date of discharge with effect from 10.12.2014 [as per the judgment of **Ram Avtar** (supra)], as it is held to be attributable to or

[2] Page 86 of the paper book
[3] 2013 (7) SCC 361
[4] Civil Appeal No. 5970 of 2019
[5] (2015) 12 SCC 264

aggravated by the military services. It restricted the arrears to three years prior to the date of filing of the OA i.e., 28.11.2018.

9. The submissions 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 judgment the personnel was invalidated out from the service due to the disability whereas in the present case the Respondent was superannuated from the service. Therefore, the said judgment does not apply to superannuation cases where attributability/aggravation must be established independently.

9.1. Also, she states that in the present case the Respondent needs to be considered under the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 ['Entitlement Rules, 2008'].

9.2. She states that the Tribunal misapplied the presumption under the Entitlement Rules for Casualty Pensionary Awards,1982 ['Entitlement Rules 1982'].

9.3. 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 disease to be NANA, the Tribunal could not have presumed a causal connection between the disease and the service. The presumption of attributability applies only when no contrary medical opinion exists. Here, the RMB expressly recorded the disability as NANA, thereby rebutting the presumption.

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[6] 2014 SCC Online SC 1761

9.4. 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'.

9.5. She states that the Tribunal has failed to appreciate that the Respondent retired on superannuation and not on medical invalidation, thereby making Regulation 53 of the Pension Regulations for the Army 1961 the governing provision which mandates that a superannuated officer is eligible for the disability pension only if the disability is attributable to or aggravated by military services.

9.6. She states that the Tribunal ignored the Respondent's unexplained delay of more than 12 years in availing his statutory remedy. The initial claim was rejected in December 2005, yet the Respondent filed his first statutory appeal only on 28.05.2018. The Tribunal has failed to consider that such a massive delay disentitles the applicant to relief and renders the claim stale.

10. We have heard the learned counsel for the petitioner and perused the record.

11. In the facts of the present case, the Respondent retired on 31.05.2005 and consequently his claim for disability pension would admittedly be governed by Entitlement Rules, 1982. Therefore, the submission of the Petitioner that the governing Rules applicable to the Respondent's claim are Entitlement Rules, 2008, is factually incorrect. Thus, the reliance placed by the Tribunal on the judgments of **Dharamvir Singh (supra), Ram Avtar (supra)** and **Commander Rakesh Pande (supra)** is apposite, as there is a presumption in favour of the Respondent that he was in sound physical and

mental condition at the time of enrolment since no physical disability is noted or recorded at the time of his entry into service.

12. We also take note of a recent decision of the Supreme Court in the case of **Bijender Singh vs. Union of India**[7] pertaining to disability pension which has reiterated that it is incumbent upon the Medical Board to furnish cogent reasons for opining that a disease is NANA and the burden to prove the causal connection is on the Military Establishment.

13. The requirement of cogent reasons to be recorded by the Medical Board while determining aggravation and attributability has been succinctly explained by the Supreme Court in another recent decision of **Rajumon T.M. v. Union of India**[8]. In the said decision the Supreme Court held that merely stating an opinion in the RMB, that the disease is 'Constitutional Personality Disorder' without giving reasons or causative factors to support such an opinion, is an unreasoned medical opinion. The Supreme Court explained that the said opinion of the Medical Board in the RMB was merely a conclusion and would not qualify as a reasoned opinion for holding the disease to be NANA.

14. The law is therefore well settled on the issue that onus to prove disentitlement remains with military establishment under the Entitlement Rules, 1982 and the presumption is in favour of the officer.

15. The Respondent was enrolled in Indian Army on 20.01.1966 and the disease/disability NIDDM was discovered while in service in the year 2002 (after 36 years), and therefore, the disease has indisputably arisen during his military service. The Respondent was discharged from service on

[7] 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47
[8] 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36

31.05.2005 on attaining the age of superannuation. The opinion rendered by the RMB for opining NANA is extracted as under: -

PART-V

OPINION OF THE MEDICAL BOARD

(Note to be communicated to the individual)

1. Causal Relationship of the Disability with Service conditions of 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) NIDDM E-11 Z-09	No	No	Yes	Being a metabolic disorders

16. The Medical Board in the RMB has concluded that the disease/disability of NIDDM is a metabolic disorder in nature, whereas in the order dated 28.09.2018 while rejecting the first appeal the Medical Board has additionally opined that since the onset of the disability is at peace station, the disease is NANA.

As is evident, no causative factors for holding the disease a metabolic disorder have been enlisted by the Medical Board in the RMB. As per law, the Medical Board is required to enlist the causative factors which lead to the conclusion that the disease is a metabolic disorder and not caused by military service. The opinion 'metabolic disorder' in the absence of the causative factors is not sufficient to deny attributability.

Similarly, the ground that the onset of the disease was in a peace station has been held to be an invalid ground for denying disability pension.

(Re: **Union of India vs. Col. Balbir Singh (Retd.)**[9], and **Union of India v. Ex. Sub Gawas Anil Madso**[10])

The opinion in the RMB relied upon by the Petitioners in these proceedings fails the test of a reasoned opinion as stipulated in the aforesaid judgments of the Supreme Court and Division Bench of this Court.

17. The Medical Board itself categorically records at Part V in response to the question no. 2 that the disability did not exist in the Respondent before he entered the military service and in response to the question no. 5 (a) and (b) that the disability is not attributable to the officer's own negligence or misconduct, at internal page 5 of the RMB. It is thus evident that the disease of NIDDM was indisputably contracted during military service and the Respondent is not responsible of any negligence leading to the causation of the said disease.

18. In these facts, the opinion in the RMB for holding NANA and the Petitioner's decision denying disability pension is unreasoned. Since no other causal connection for the disease has been found to exist by the Medical Board, the plea of disability pension has been wrongly rejected by the Military establishment. Therefore, the disease is presumed to have been attributable to the military service.

Since the disease is attributable to the military services, the Petitioner's contention that the Respondent does not fulfil the foundational eligibility criteria stipulated under the Regulation 53 of the Pension Regulations for the Army 1961 and that the benefit of rounding off cannot be granted to the Respondent, do not sustain.

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[9] 2025: DHC: 5082-DB
[10] 2025: DHC: 2021-DB

19. In view of the aforesaid findings, the Petitioners' challenge to the grant of disability element of pension to the Respondent by the Tribunal, is without any merits. The Respondent has been rightly held to be entitled to the disability pension.

20. Additionally, we note that the impugned order is dated 12.05.2023 and the petition has been filed after 2½ years, without any explanation for such a delay. The Petitioner was obliged to comply with the impugned order of the Tribunal within four (4) months and the same has presumably not been complied with till date. This conduct of the Petitioner is not justified. The Petitioner ought to have filed this petition within four (4) months. Keeping in view that the claim of disability pension is beneficial in nature, we hold that filing of this petition is also barred by delay and laches.

21. In view of the aforesaid, we find no merit in this petition; the petition is dismissed. Pending application(s), if any, are disposed of. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

MARCH 16, 2026/AJ