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

% *Date of Decision : 17.03.2026*

+ W.P.(C) 3377/2026 CM APPL. 16209-16210/2026

UNION OF INDIA AND ORS.Petitioners

Through: Mr. Kanishk Kharbanda, SPC with
Major Kanika Sharma, Army

versus

EX NK PRAMOD SRespondent

Through: Mr. Tatsat Shukla and Mr Manish
Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

1. This is a writ petition filed under Article 226 and 227 of the Constitution of India against the order dated 19.04.2024 ['impugned order'] passed by the Armed Forces Tribunal Principal Bench, New Delhi ['Tribunal'] in Original Application ['O.A.'] No. 883/2024 titled as **NK Pramod S (Retd) v. Union of India & Ors.**, wherein the Respondent has been granted the benefit of the disability element of pension for Primary Hypertension assessed at 30%, rounded off to 50% for life, from the date of his discharge from the service.

2. The facts giving rise to the present petition are that the Respondent



was discharged from the service on 31.03.2022 in low medical category [‘LMC’] on attaining the age of superannuation

3. The Release Medical Board [‘RMB’] held on 14.03.2022 assessed the disability i.e., Primary Hypertension (ICD-i-10) at 30% for life and opined that since the onset of the disease was at the time when the Respondent was serving at the peace station i.e., in November 2020 in MH Palampur, the aforesaid disability is neither attributable to nor aggravated [‘NANA’] by the military service as per the Para 43 of Chapter VI of GMO 2008.

4. The Respondent’s claim of disability pension was rejected by the Petitioner vide letter dated 14.06.2022, as the disability was held to be NANA. The Respondent’s first appeal challenging the said rejection was rejected on 09.11.2022. The Respondent preferred Second Appeal dated 09.01.2023; however, the outcome of the said appeal is not discernible from the record.

5. Subsequently, Respondent filed an O.A. No. 883/2024 before the Tribunal for the grant of disability element of pension. By the impugned order, the Tribunal after referring 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 has granted the relief of disability pension to the Respondent.

6. The submission 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 case the Supreme Court was concerned with the Entitlement Rules for Casualty

¹ 2013 (7) SCC 361



Pensionary Awards, 1982 [‘Entitlement Rules, 1982’], whereas the case of the Respondent needs to be considered under the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 [‘Entitlement Rules, 2008’].

6.1. He 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. He states in the facts of this case, Respondent was discharged from services on 31.03.2022 and therefore, the Respondent would be governed by Entitlement Rules, 2008. He states that the impugned order incorrectly applies the presumption under the repealed Entitlement Rules, 1982, ignoring the amended regime under Entitlement Rules, 2008. He 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’.

6.2. He states that the Tribunal has failed to appreciate the fact that the Respondent will be governed by the provision and conditions mentioned under Regulation 53 of the Pension Regulations, 2008 [‘2008 Regulation’]. He states that as the Respondent in the present case was discharged from service on completion of service and the RMB held the disability to be NANA, therefore the Respondent would not be entitled for the grant of disability pension as per the Regulation 53 of 2008 Regulations. The said

² 2014 SCC OnLine SC 1761



Regulation 53 reads as under:

“DISABILITY ELEMENT FOR DISABILITY AT THE TIME OF DISCHARGE /RETIREMENT

53. (a) An individual released/retired/discharged on completion of term of engagement or on completion of service limits or on attaining the prescribed age (irrespective of his period of engagement), if found suffering from a disability attributable to or aggravated by military service and so recorded by Release Medical Board, may be granted disability element in addition to service pension or service gratuity from the date of retirement/discharge, if the accepted degree of disability is assessed at 20 percent or more.

(b) The disability element for 100% disability shall be at the rate laid down in Regulation 98 (b) below. For disabilities less than 100% but not less than 20%, the above rates shall be proportionately reduced. Provisions contained in Regulation 98(c) shall not be applicable for computing disability element.

...”

6.3. No other grounds have been pressed.

7. Having perused the reasons recorded in the RMB for opining NANA, we are unable to agree with the submissions made by the learned counsel for the Petitioners that the Tribunal committed any error in granting relief to this Respondent.

8. In another petition, i.e., 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 Madso³** and W.P.(C) 140/2024 titled **Union of India vs. Col. Balbir Singh (Retd.) and other connected**

³ 2025: DHC: 2021-DB



matters⁴, which have conclusively held that even under Entitlement Rules, 2008 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 judgments emphatically hold that even under the Entitlement Rules, 2008, the onus to prove a causal connection between the disability and military service is not on the officer but on the administration. The judgments hold that the Entitlement Rules, 2008, however, contemplate that in the event the Medical Board concludes that the disease, though contracted during the tenure of military service, was NANA 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 of the Medical Board opining ‘Onset in Peace Station’ would not be sufficient for the military department to deny the claim of disability pension; and rejected the opinions of the Medical Board. The judgments hold that the burden to prove the disentitlement of pension therefore remains on the military department even under the Entitlement Rules, 2008; and emphasise on the significance of the Medical Board giving specific reasons to justify their opinion for denial of this beneficial provision to the officer.

9. For reference, we also note that the Supreme Court in its recent judgment in the case of **Bijender Singh vs. Union of India**⁵ has reiterated that it is incumbent upon the Medical Board to furnish reasons for opining

⁴ 2025: DHC: 5082-DB



that a disease is NANA and the burden to prove the same is on the Military Establishment.

The reasons to be recorded by the Medical Board has been succinctly explained by the Supreme Court in another recent decision of **Rajumon T.M. v. Union of India**⁶ to state that merely stating an opinion, such as ‘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 was merely a conclusion and would not qualify as a reasoned opinion for holding the disease/disability to be NANA.

10. In this background of settled law holding that the onus to prove disentitlement remains heavy on military establishment vis-à-vis Entitlement Rules, 2008 and the Medical Board must give cogent reasons for denying attributability and aggravation, we have examined the facts of this case.

11. The Respondent was enrolled in the Indian Army in 25.01.2004 and the disease/disability Primary Hypertension (ICD-i-10) was discovered in the year 2020 [after 16 years of service], while he was serving at peace station and therefore, the disease has indisputably arisen during his military service. As noted above, the Respondent was discharged from service on 31.03.2022.

12. The Petitioners have 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 NANA by the military service. The opinion rendered

⁵ 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47



by the RMB is extracted as under: -

PART VII
OPINION OF THE MEDICAL BOARD

1. Please endorse diseases/disabilities in chronological order of occurrence :-

Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	DETAILED JUSTIFICATION
PRIMARY HYPERTENSION (I10)	NO	No	Onset of disability occurred while serving in Peace area. Hence, NANA conceded as per Para 43 of Chapter VI of GMO 2008.

*Note: 1. A detailed justification regarding the board's recommendations on the entitlement for each disease/ disability must be provided sequentially especially in NANA cases as per enclosed Appendix 'A'.
2. In case of multiple disabilities or inadequate space, do not paste over the opinion, an additional sheet should be attached instead, providing a detailed justification, which is authenticated by the President and all members of the Medical Board.
3. In case the medical board differs in opinion from the previous medical board, a detailed justification explaining the reasons to differ should be brought out clearly.
4. A disability cannot simultaneously be both attributable to or aggravated by military service, only one or neither of which will apply.*

13. The Petitioners contend that disease is NANA since the onset of the disease was at a peace area and that there was no stress of the military service.

This precise reason in the medical opinion has been specifically rejected by the coordinate Bench of this Court in **Col. Balbir Singh (Retd.) (supra)**⁷, while granting disability pension to the officer suffering from Primary Hypertension, and has been held to be an invalid ground for denying attributability to the military service. The Division Bench in the said decision after taking note of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010 held that the fact that the disability occurred in normal peace conditions is immaterial and by itself is not sufficient to deny disability pension to the officer. The ratio of the said judgment is squarely applicable in the facts of this case.

⁶ 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36



14. No other reason/ground has been cited in the RMB report of the Respondent for opining NANA. In fact, the RMB herein categorically records in response to the question no. 2 (a), that the Respondent did not have this disability before entering into service at internal page 8 of RMB⁸ and also to the response of question no. 5 (a) and (b), that the disability is not attributable or aggravated to the officer's own negligence or misconduct. In these facts, since no other causal connection for the disease has been found to exist by the RMB, the claim of disability pension has been wrongly rejected by the Military establishment, and the officer has been rightly held by the Tribunal to be entitled to disability pension. The Respondent is entitled to the disability pension as per Entitlement Rules 2008 and Regulation 53 of the Pension Regulations 2008.

15. Additionally, we note that the impugned order is dated 19.04.2024 and the petition has been filed after nearly two 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 with effect from 19.04.2024; however, the same has not been complied with till date. Keeping in view that the claim of disability pension is beneficial in nature, the Petitioner ought to have taken steps to file its challenge within a time bound period, and certainly before the period of four (4) months had lapsed. There is no explanation whatsoever for the delay in approaching this Court and presumably the order of Tribunal have also not been complied with. We thus, hold that filing of this petition is also barred by delay and laches.

⁷ At paragraph nos. 66 to 74



16. In view of the aforesaid findings, the Petitioners' challenge to the grant of disability element of pension to the Respondent, is without any merits. The Respondent has been rightly held to be entitled to the disability pension under the Entitlement Rules, 2008 by the Tribunal in the impugned order. The Petitioners are directed to comply with the order of the Tribunal without any further delay.

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

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

MARCH 17, 2026/AJ

⁸ Page 358 of the paperbook