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

% *Date of Decision : 22.01.2026*

\+ W.P.(C) 940/2026 CM APPL. 4604/2026 CM APPL. 4605/2026

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

Through: Ms. Ritu Reniwal, Sr. Panel Counsel

versus

89760 Z CDR NS DHAMI .....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. 4604/2026 (for exemption)

1. Allowed, subject to just exceptions.

2. The application is disposed of.

W.P.(C) 940/2026

3. This petition lays a challenge to an order dated 03.08.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi in O.A. 1025/2019. The Tribunal has allowed the O.A. filed by the respondent 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% for life with effect from the date of his discharge in terms of the judicial pronouncement of the Hon'ble Supreme Court 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% p.a. from the date of receipt of copy of the order by the respondents."*

4. The submission of the learned counsel for the petitioners is primarily that the Tribunal has erred in relying upon the judgment of the Supreme Court in the case of ***Dharamvir Singh v. Union of India***[1]. She submits that, in terms of the Entitlement Rules of 2008, the presumption of disability attributable to or aggravated by the service has been done away with. Suffice to state that this Court in the case of ***Union of India & Ors. v. 1481129 P Ex Hav Ram Kumar***[2] at paragraphs 9, 10 and 13 has held as under:

> *"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*

[1] (2013) 7 SCC 361
[2] 2026:DHC:197-DB

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 record to the contrary made at the time of such entry. In the event of subsequent discharge from*

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

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)

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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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 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.

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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.

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*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**.*

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*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)"

5. It is noted that the disability of the respondent is primary hypertension which has been assessed at 30% for life.

6. We note that the petitioner's stand is primarily the following:

> *"1. I am directed to say that it has been decided by the Competent Authority in consultation with the Medical Authority that the disabilities namely (i) Primary Hypertension and (ii) B/E Fundus Flamimaculatus, from which you have been found suffering by the Release Medical Board, should be regarded as neither attributable to nor aggravated by Naval Service. In view of the fact that your disability is NANA to Naval Service, your case for disability pension is not acceded to.*
> *2. In case you are not satisfied with the above decision you may prefer an appeal to the Appellate Committee on First Appeal (ACFA) within twelve months from the date of receipt of this letter. The appeal may be addressed to the Principal Director, IHQ-MoD(N), Dte of Pay & Allowances, D-II Wing, Sena Bhawan, New Delhi-110011."*

7. From the foregoing, it is evident that the petitioners themselves have taken the stand that the disability of primary hypertension was assessed as neither attributable to nor aggravated by naval service. Although the proceedings of the Release Medical Board have not been placed on record, it is undisputed that the petitioners have so stated, and the said aspect has also been taken into consideration by the Tribunal. In the light of the settled position of law, and there being no case set up by the petitioners that the Release Medical Board assigned cogent or sustainable reasons in support of such a conclusion, this Court is of the considered view that the Tribunal was justified in allowing the Original Application filed by the respondent and in

granting the relief of disability pension in his favour.

8. Accordingly, we find no merit in the petition and the same is dismissed. Pending application is dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 22, 2026/msh/aj