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

% *Date of Decision : 23.01.2026*

\+ **W.P.(C) 1000/2026 CM APPL. 4864/2026 CM APPL. 4865/2026**

UNION OF INDIA AND ORS .....Petitioners

Through: Ms. Arti Bansal, CGSC UOI with Ms. Shruti Goel Advocate

versus

(624717) EX HFL KSHETRA MOHAN SEN .....Respondent

Through: Mr. Baljeet Singh, Mr. Deepika Sheoran and Mr. Abhishek Gahlyan, Advs.

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

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

1. This petition under Article 226 of the Constitution of India lays the challenge to the order dated 17.08.2023 ('impugned order') passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in Original Application ('O.A.') 123/2020 titled **Ex. HFL Kshetra Mohan Sen v. Union of India and Others,** wherein the respondent has been granted the benefit of the disability element of pension for Diabetes Mellitus Type II (Old) at 20% for life, rounded off to 50% for life from the date of discharge i.e., 31.07.2019.

2. The facts in the present case are that the respondent was enrolled into the Indian Air Force on 08.12.1979 and was discharged from the services on

31.07.2019 under the clause 'on attaining the age of superannuation'. The Release Medical Board ('RMB', for short) proceedings were held on 31.08.2018, wherein the Medical Board assessed respondent's disability of Diabetes Mellitus Type II (Old) at 20% for life. The Medical Board opined that since the onset of the disease was at the time, when the respondent was serving at a peace station in September, 2016; and since there was no delay in diagnosis; as well as there is no close time association with stress and strain of service; and hence, the aforesaid disability is neither attributable nor aggravated ('NANA', for short) by military service.

3. The respondent's claim for disability pension was rejected by the petitioners vide letter dated 11.02.2019 and the same was communicated to the respondent vide letter dated 24.04.2019. The first appeal filed by the respondent was also rejected by the concerned authority on 12.12.2019. Thereafter, the respondent approached the Tribunal by way of filing O.A. 123/2020, thereby praying for grant of disability element of pension.

The respondent claimed before the Tribunal that he has served in the Indian Air Force at various places in different environmental and service conditions in his prolonged service, thereby, any disability at the time of his service is deemed to be attributable to or aggravated by military service. The respondent further claimed that no note of any disability was recorded in the service documents of the respondent at the time of the entry into the service.

4. By impugned order dated 17.08.2023, the Tribunal allowed the respondent's claim. The Tribunal referred to the judgments of the Supreme Court in **Dharamvir Singh v. Union of India and Ors**.[1], **Union of India v.**

[1] 2013 (7) SCC 361

Ram Avtar[2] and other judgments for granting the relief as claimed by the respondent herein.

5. The only 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 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 petitioners contend that the Tribunal has overlooked 2008 Entitlement Rules, which govern attributability and aggravation and no longer permit a blanket presumption in favour of the claimant. She states that in the facts of this case, respondent was discharged on 31.07.2019 and therefore, the respondent would be governed by 2008 Entitlement Rules. She states that the impugned order incorrectly applies the presumption under the repealed 1982 Entitlement Rules, ignoring the amended regime under 2008 Entitlement Rules. She 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*'.

6. Having perused the opinion of the RMB, 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. In the facts of this case, the respondent would be entitled to disability pension under the 2008 Entitlement Rules.

[2] 2014 SCC OnLine SC 1761

7. 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 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 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' or 'lifestyle disorder' would not be sufficient for the military department to deny the claim of disability pension. The judgments hold that the burden to prove the disentitlement of pension therefore remains on the military department even under the 2008 Entitlement Rules; and emphasise on the significance of the Medical Board giving specific reasons for denial of this beneficial provision to the officer. The judgments hold that even under the 2008 Entitlement Rules, the onus to prove a causal connection between the disability and military service is not on the officer

[3] 2025: DHC: 2021-DB
[4] 2025: DHC: 5082-DB

but on the administration.

8. For reference, we 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, has held as under on the aspect of furnishing of reasons by the Medical Board: -

> *"**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.*
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> ***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)

9. 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 of Diabetes Mellitus Type II (Old) at 20% for life, rounded off to 50% for life from the date of discharge i.e., 31.07.2019. 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 not attributable to or aggravated by the military service. The opinion rendered by the RMB is extracted as under: -

PART- V
OPINION OF THE MEDICAL BOARD

1. Causal relationship of the disability with service conditions or otherwise

Disability	Attributable to service (Y/S)	Aggravated by Service (Y/N)	Not connected with service (Y/N)	Reasons / Cause / Specific condition And period in service
DIABETES MELLITUS TYPE –II (OLD)	NO	NO	YES	Onset is in Sep 16 while serving in 5 Wg, AF, Kalaikunda, a Peace station. There is no delay in diagnosis and no close time association with stress and strain of service. Hence, the disability is Not Attributable to, Not Aggravated by Service in terms of Para 26 of Chapter VI of GMO (Military Pension) 2002 (amended in 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.

10. The respondent was enrolled in the Indian Air Force on 08.12.1979 and the disease was discovered in September 2016 (after 37 years of service), when he was serving at peace station in Kalaikunda and therefore, the disease has indisputably arisen during his military service. The respondent was discharged from service on 31.07.2019 with RMB assigning him permanent low medical category.

11. The petitioners have contended that the onset of the disease was at a peace station and there was no close time association with stress and strain of the military service. This reason in the RMB for denying disability pension has been specifically rejected by the coordinate Benches of this Court in both **Ex. Sub Gawas Anil Madso**[6] (supra) and **Col. Balbir Singh (Retd.)**[7] (supra) and held to be an invalid ground for denying causal connection with the military service.

12. In the facts of this case, the Medical Board has not ascertained and identified a cause, other than military service, to which the disease can be attributed. In fact, the RMB categorically records that respondent did not

[6] At paragraph nos. 82 to 84

suffer any disability before joining the armed forces as recorded in the RMB in response to question number 2[8]. In these facts, if no other causal 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 has been rightly held by the Tribunal as entitled to disability pension by the Tribunal. (Re: **Dropadi Tripathi v. Union of India**[9]).

13. In view of the aforesaid findings, the petitioners' challenge to the grant of disability element of pension to the respondent, is without any merits.

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

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JANUARY 23, 2026/MG/mt

[7] At paragraph nos. 66 to 74
[8] At page no. 74 of the paper-book.
[9] 2025: DHC: 8709-DB at paragraph nos. 13 and 14.