



2026:DHC:589-DB



\$~25

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

%

Date of Decision : 23.01.2026

+ **W.P.(C) 974/2026, CM APPL. 4683/2026 CM APPL. 4684/2026**

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Jagdish Chandra, CGSC and Ms
Maanya Saxena, Adv.

versus

726766 EX JWO SANJAY KUMAR SHARMA

.....Respondent

Through:

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 challenges the order dated 31.07.2023 ('impugned order') passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal') in Original Application (O.A.) 1323/2020 titled '**Ex JWO(AUP) Sanjay Kumar Sharma v. Union of India and Ors.**', whereby the Tribunal has granted disability element of pension to the respondent in respect of disability Primary Hypertension at 30% and Diabetes Mellitus Type II at 20% (compositely for both disabilities at 40% life), rounded off to 50% with effect from the date of discharge of the respondent.



2. The facts to be noted are that the respondent was enrolled into the Indian Air Force ('IAF') on 19.01.1988 and was discharged from the services on 16.04.2019. The Release Medical Board ('RMB') proceedings were held on 02.02.2019, wherein the RMB assessed the respondent's disability of (i) Alcohol Dependence Syndrome ICD-F10 at 0%, (ii) Primary Hypertension at 30%, (iii) Diabetes Mellitus Type-II at 20%, (iv) Obesity at 1-5% and (v) Dyslipidemia at 1-5% for life, with a composite assessment for all the disabilities at 60% for life, which were neither attributable nor aggravated ('NANA') by military service.

The respondent's claim for disability pension was rejected by the petitioners vide letter dated 31.05.2019 on the basis of the said RMB report and was communicated to the respondent vide letter dated 29.06.2019. The respondent approached the Tribunal by way of O.A. 1323/2020, praying for the grant of disability element of pension.

3. The respondent claimed before the Tribunal that he has served in the IAF 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.

4. By the impugned order dated 31.07.2023, the Tribunal allowed the respondent's claim and 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 respondent herein for the disease of Primary Hypertension and Diabetes Mellitus Type-II.

It is pertinent to note that, however, the Tribunal rejected the

¹ (2013) 7 SCC 316

² 2014 SCC OnLine SC 1761



disability element of pension for Alcohol Dependence Syndrome ICD-F10, Obesity and Dyslipidaemia.

5. The petitioners contend 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'), 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').

6. It is contended that the Tribunal has overlooked the 2008 Entitlement Rules, which govern attributability and aggravation and no longer permit a blanket presumption in favour of the claimant. He states in the facts of this case that the respondent was discharged on 16.04.2019, and therefore, the respondent would be governed by the 2008 Entitlement Rules. He states that the impugned order incorrectly applies the presumption under the repealed 1982 Entitlement Rules, ignoring the amended regime under the 2008 Entitlement Rules. He states that under the Entitlement Rules, 2008, the earlier general presumption for assessing whether a condition is 'attributable to or aggravated by military service' no longer survives.

7. It is contended that the Tribunal has also failed to appreciate Rule 6 of the 2008 Entitlement Rules, which stated that there should be a causal connection between the disability of the respondent and the military service.

8. 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. In the facts of this case, the respondent would be entitled to



disability pension under the 2008 Entitlement Rules.

9. 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 matters⁴, 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 RMB 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 burden to prove the disentitlement therefore remains on the military department even under the 2008 Entitlement Rules, and the aforesaid judgments emphasise the significance of the Medical Board giving specific reasons for the denial of this beneficial provision. The judgments hold that 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.

10. 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 and emphasised that the Medical Board must furnish reasons for denying disability pension:

“45.1. Thus, this Court held that the 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

⁵ 2025 SCC OnLine SC 895



*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 the law settled vis-à-vis the 2008 Entitlement Rules, we have examined the facts of this case.

12. The Tribunal has held that the respondent is entitled to disability element of pension in respect of his disabilities – (i) Diabetes Mellitus Type II at 20% for life and (ii) Primary Hypertension at 30% for life, compositely assessed at 40% for life, rounded off to 50% for life from the date of discharge i.e., 16.04.2019. The petitioners have only raised the issue of non-entitlement of the disability element of the pension on the ground that the RMB has held that the diseases are NANA by the military service. The opinion rendered by the RMB is extracted as under: -



PART V
Opinion of the medical Board

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.
1) ALCOHOL DEPENDENCE SYNDROME (ICD-F10.2)	NO	No	Yes	Alcohol consumption is an individual's discretion and habit. The air warrior in spite of adequate treatment, had recurrence of the disease. There are no service conditions related to onset and perpetuation of the habit in the instant case. Hence, the disability is considered as neither attributable to nor aggravated by military service.
2) OBESITY (ICD-E66.9)	No	No	Yes	This is a life style disorder due to dietary indiscipline and lack of exercise. The condition is neither attributable nor aggravated by service.
3) TYPE II DIABETES MELLITUS (ICD- I11.0)	NO	No	Yes	Onset in peace station, there is no close time association with field / HAA/ CI Ops military service. There was no delay in diagnosis and treatment. The condition is neither attributable nor aggravated by service vide Para 26 CH VI GMO 2008.
4) PRIMARY HYPERTENSION (ICD-I 10.0)	No	No	Yes	Onset in peace station, there is no close time association with field / HAA/ CI Ops military service. There was no delay in diagnosis and treatment. The condition is neither attributable nor aggravated by service vide Para 43 CH VI GMO 2008.
5) DYSLIPIDEMIA (ICD-E 78.0)	No	NO	YES	This is a life style disorder due to dietary indiscipline and lack of exercise. There was no delay in diagnosis and treatment. The condition is neither attributable nor aggravated by service.

Sr. No. 3 and Sr. No. 4 of the table is relevant. The only reason recorded by the RMB for holding NANA is that the onset was in peace station and there is no close time connection with field/HAA/CI OPS military service.

13. As noted above, the respondent was enrolled in the IAF on 19.01.1988, and was diagnosed with Type II Diabetes Mellitus in September 2001 (after 13 years of service) while posted in Dinjan and with Primary Hypertension in May 2012 (after 24 years of service) while posted in Sular; therefore, the diseases have indisputably arisen during his military service. The respondent admittedly did not suffer any disability before joining the armed forces and this is also acknowledged by the board in answer to question number 2 at page 99 of the paper-book. The respondent was released from service on 16.04.2019, as the RMB recommended his release on account of his low medical category.



14. The reasons recorded in the RMB being solely ‘onset at peace station’ has been held to be invalid and unjustified for denying disability pension by the coordinate benches in the aforementioned judgments of **Ex. Sub Gawas Anil Madso**⁶ (supra) and **Col. Balbir Singh (Retd.)**⁷ (supra). The coordinate Bench referred to Regulation 423(a) of the Regulations for the medical services of the Armed Forces, 2010 to hold that whether the disability occurs in field area or under peace conditions is immaterial. The coordinate Bench held that the military service inherently carries stress that may pre-dispose the Force Personnel to medical conditions such as hypertension even in peace areas. It also held that especially where the Force Personnel has rendered prolonged military service, there exist a substantial onus on the RMB to establish that the hypertension is not attributable to or aggravated by military service.

In the facts of this case, the Medical Board has not ascertained and identified a cause, other than military service, to which the diseases can be attributed. If no other causal connection for the disease has been found to exist by the Medical Board, the plea of disability pension could not have been rejected by the Military establishment, and the officer was entitled to disability pension. (Re: **Dropadi Tripathi v. Union of India**⁸). In these facts, the Tribunal correctly granted the disability pension to the respondent for the diseases which are attributable to the stress and strain of the military service in the absence of the findings to the contrary.

15. The petitioners’ challenge to the grant of disability element of pension

⁶ Paragraph Nos. 82 and 83.

⁷ Paragraph Nos. 66, 67 to 74.

⁸ 2025: DHC: 8709-DB at paragraphs 13 and 14.



2026:DHC:589-DB



to the respondent is without any merit. Accordingly, the petition is dismissed. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JANUARY 23, 2026/aa/mt