$~66

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

% *Date of Decision : 24.02.2026*

\+ **W.P.(C) 2574/2026 CM APPL. 12491/2026 CM APPL. 12492/2026**

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Jaswinder Singh, SPC.

versus

777792 SGT PRAVEEN KUMAR UPADHYAY (RETD.)

.....Respondent

Through: Mr. Nawneet Krishna Mishra, Adv.

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 of the Constitution of India against the order dated 08.10.2024 [‘impugned order’] passed by the Armed Forces Tribunal Principal Bench, New Delhi [‘Tribunal’] in Original Application [‘O.A.’] No. 3519/2023 titled as **SGT Praveen Kumar Upadhyay (Retd.) v. Union of India & Ors.,** wherein the Respondent has been granted the benefit of the disability element of pension for the disability of Primary Hypertension (Old) ICD No-I 10.0 Z09.0 assessed at 30% for life, 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 under the clause 'on fulfilling the conditions of enrolment' after rendering total 20 years 13 days of regular service.

3. The Release Medical Board ['RMB'] held on 27.08.2021 assessed the disability i.e., Primary Hypertension (Old) at 30% for life. The RMB opined that since the onset of the disease was at the time when the Respondent was serving at peace station i.e., in May 2019 at 02 Wg, Pune (a peace area), the aforesaid disability was neither attributable to nor aggravated ['NANA'] by the military service.

4. Respondent filed O.A. No. 3519 of 2023 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] granted the relief of disability pension to the Respondent.

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 ['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,

[1] 2013 (7) SCC 361
[2] 2014 SCC OnLine SC 1761

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.

6.2. He states in the facts of this case, Respondent was discharged from services on 30.06.2022 and therefore, the Respondent would be governed by Entitlement Rules, 2008.

6.3. He states that the impugned order incorrectly applies the presumption available under the repealed Entitlement Rules, 1982, ignoring the amended regime under Entitlement Rules, 2008, which does not raise this presumption in favour of the personnel.

6.4. 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'.

7. Having perused the reasons recorded in the opinion of the RMB for holding NANA, for the reasons recorded hereinafter 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 view of the fact that the Respondent was discharged from service on 30.06.2022, indeed the claim of disability pension would be governed by Entitlement Rules, 2008.

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 matters**[4], 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 said 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 Entitlement Rules, 2008, however, contemplates 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.

10. For reference, we also note that the Supreme Court in its recent

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

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

The distinction between conclusion and reasons 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/conclusion, such as 'CONSTITUTIONAL PERSONALITY DISORDER' in the RMB 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.

11. In this background of settled law holding that the onus to prove disentitlement remains on military establishment and not the officer vis-à-vis Entitlement Rules, 2008, we have examined the facts of this case and the RMB.

12. The Respondent was enrolled in the Indian Air Force on 17.06.2002 and the disease/disability Primary Hypertension (Old) was discovered in the year 2019 [after 17 years of service], while he was serving in the Force and therefore, the disease has indisputably arisen during his military service. The Respondent was discharged from service on 30.06.2022 on completion of conditions of enrolment.

13. The Petitioners have raised the issue of non-entitlement of the disability element of the pension only on the ground that the Medical Board

[5] 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47
[6] 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36

has held that the disease is NANA by the military service. The opinion rendered by the RMB is extracted as under: -

OPINION OF THE MEDICAL BOARD

Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	Detailed Justification
Primary Hypertension(Old) ICD No-I 10.0 Z09.0	NO	NO	**Onset May/2019, at 02 Wg, Pune – a peace area**. There was no delay in treatment Treated at CH(SC) Pune There is no association with stress/strains of field/HAA/CI Ops of service. **Hence, disability is neither attributable to nor aggravated due to service** conditions (Para 43 Chapter VII of GMO (Mil Pens) 2008)).
Note -1. A detailed justification regarding the board's rec on the entitlement for each diseases/dis must provided sequential especially in NANA cases as per enclosed Appendix 'A'. 2. In case of multiple disabilities of 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 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.			

(Emphasis supplied)

14. The Petitioners contend that disease is NANA since the RMB records 'onset of the disease was at a peace station' and that there was no stress of the military service.

This precise reason of 'onset in peace station' 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, therein, similarly 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 a sufficient ground to deny disability pension to the officer.

15. It is now well settled that the Medical Board is obliged to record cogent reasons and the causative factors which in their opinion led to the personnel suffering from the said disease. If the Medical Board fails to identify the causal connection, the presumption is that the disease was suffered by the personnel due to the stress and strain arising from the military service. The statement in the subject RMB that 'onset was in a peace area and there is no association with stress/strains of field/HAA/CI Ops of service' is not a legally valid ground for opining NANA.

16. No other ground has been cited in the RMB report of the Respondent for holding NANA.

In fact, the subject RMB categorically records in response to the question no. 2 (a) and (b) that the disability is not attributable to the officer's own negligence or misconduct recorded at internal page 8 of the RMB[8]. In these facts, since no other causal connection for the disease has been found to exist by the RMB, the plea of disability pension has been wrongly rejected by the Military establishment.

[7] At paragraph nos. 66 to 74
[8] At page 69 of the paper book

17. 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.

18. Additionally, we note that the impugned order is dated 08.10.2024 and the petition has been filed after more than a year, without any explanation for such a delay. The Petitioner was obliged to comply with the impugned order of the Tribunal within four months and the same has not been complied with till date. 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.

19. We therefore 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

FEBRUARY 24, 2026/IB