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

% *Date of Decision : 26.02.2026*

\+ W.P.(C) 2739/2026 CM APPL. 13303/2026

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

Through: Mr. Shashank Dixit, CGSC, Mr. Kunal Raj, Sgt. Padam Charan and Sgt Karani Singh Rathore, DAV

versus

622441 EX HFO BRAHMPAL SHARMA .....Respondent

Through: Mr. Vinod Kataria, Adv.

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

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

CM APPL. 13304/2026 (Exemption)

1. Exemption is allowed, subject to just exceptions.

2. The application is disposed of.

W.P.(C) 2739/2026, CM APPL. 13303/2026

1. This is a writ petition filed under Article 226 of the Constitution of India against the order dated 03.08.2023[‘impugned order’] passed by the Armed Forces Tribunal, Principal Bench, New Delhi [‘Tribunal’] in Original Application [‘O.A.’] No. 1370/2019 titled as **HFO Brahmpal Sharma (Retd) v. Union of India & Ors.,** wherein the Respondent has been granted

the benefit of the disability element of pension for Diabetes Mellitus Type-II (Old) assessed at 20% 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 retired from the service on 31.10.2017 under the clause 'on attaining the age of superannuation' after rendering a total of 39 years and 165 days of regular service. The Release Medical Board ['RMB'], held on 19.12.2016, assessed his disabilities i.e., (a) Cataract (Rt) Eye (Otpd) with Pseudophakia with Cataract (Lt) Eye (Old) at 15-19% and (b) Diabetes Mellitus Type-II at 20% for life with composite assessment for both IDs at 40% for life. It is recorded in the impugned order[1] that the Respondent did not press for the grant of disability element of pension in relation to the disability of Cataract and only confined itself to the grant of the disability element of pension for Diabetes Mellitus Type-II (Old).

3. The RMB opined that since the onset of the disease i.e. Diabetes Mellitus Type-II (Old) was at the time when the Respondent was serving at the peace station i.e., in October 2013 at Jaisalmer/2212 Sqn (41 Wing, AF); that the disease of Diabetes Mellitus Type-II (Old) is metabolic in nature, therefore, the aforesaid disability was neither attributable to nor aggravated ['NANA'] by the military service.

4. The Respondent's claim of disability pension was rejected by the Petitioner vide letter dated 12.12.2017 and the same was communicated to the Respondent vide letter dated 13.04.2018. The Respondent's first appeal dated 15.06.2018 and second appeal dated 10.5.2019 challenging the said

[1] At paragraph 4 of the impugned order.

refusal, had not been replied to by the competent authority till the filing of the O.A.

5. In these facts, Respondent filed O.A. No. 1370/2019 before the Tribunal for the grant of disability element of pension.

By the impugned order, the Tribunal while referring to the judgments of the Supreme Court in **Dharamvir Singh v. Union of India and Ors**.[2] and **Union of India v. Ram Avtar**[3] granted the relief of disability pension to the Respondent.

6. 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, 2008, which governs attributability and aggravation and no longer permit a blanket presumption in favour of the claimant and since the RMB has opined the diseases 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 retired on 31.10.2017 and therefore, the Respondent would be governed by Entitlement Rules,

[2] 2013 (7) SCC 361
[3] 2014 SCC Online SC 1761

2008.

6.3 He states that the impugned order incorrectly applies the presumption under the repealed Entitlement Rules, 1982, ignoring the amended regime under Entitlement Rules, 2008.

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, 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 Madso**[4] and W.P.(C) 140/2024 titled **Union of India vs. Col. Balbir Singh (Retd.) and other connected matters**[5], 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

[4] 2025: DHC: 2021-DB
[5] 2025: DHC: 5082-DB

the disability and military service is not on the officer but on the administration. 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**[6] has reiterated that it is incumbent upon the Medical Board to furnish cogent 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**[7] to state that merely stating an opinion/conclusion, such as 'CONSTITUTIONAL PERSONALITY DISORDER' without

[6] 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47
[7] 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36

giving reasons or causative factors to support such an opinion, is an unreasoned medical opinion. The 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 law settled with respect to onus remaining on military establishment vis-à-vis Entitlement Rules, 2008, we have examined the facts of this case and the RMB.

In our view, the opinion of NANA in the RMB relied upon by the Petitioners in these proceedings similarly fails the test of a reasoned opinion as stipulated in the aforesaid judgments of the Supreme Court and this Court.

11. The opinion rendered by the RMB with respect to the disease of Diabetes Mellitus is extracted as under:

OPINION OF THE MEDICAL BOARD
(Not to be communicated to the individual)

Causal 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
(i) Type 2 Diabetes Mellitus (Old)E 1', Z 09.0	No	No	Yes	The disability is metabolic in nature and onset of disability in peace area. The individual remained posted to peace area 01 year prior to onset of disease. There is no delay in diagnosis and treatment. Not related to stress and strain of military duties. Hence neither considered attributable to nor aggravated by the conditions of service as per Para 26 of GMO MIL pension 2008.
(ii) Cataract (Rt) Eye (Optd) with Pseudophakia with Cataract (Lt) Eye (Old) H 25.0, Z 09.0	No	No	Yes	The disability is due to degenerative changes of the lens. There is no delay in diagnosis and treatment. Not related to stress and strain of military duties. Hence neither considered attributable to nor aggravated by the conditions of service as per Para 13 of GMO MIL pension 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) 2008)				

[Emphasis Supplied]

12. The Respondent was enrolled in the Indian Air Force on 20.05.1978 and the disease/disability of Diabetes Mellitus Type-II (Old) was discovered in the year 2013 [after 35 years of service], while he was serving at peace station and therefore, the disease has indisputably arisen during his military service. The Respondent was discharged from service on 31.10.2017, as the RMB recommended his release on account of his low medical category A4G2(P).

13. The Petitioners contend that since the onset of the disease was at a peace station and that there was no stress of the military service as well as the disease is metabolic in nature.

'Onset at peace station' have been categorically held to be a legally invalid ground for opining NANA by the coordinate Bench of this Court in **Col. Balbir Singh (Retd.)** (supra)[8] and **Anil Madso** (supra)[9]. The said ground is therefore not available to the Petitioners.

14. Also, the RMB has classified the Respondent's disease of Diabetes Mellitus Type-II (Old) as a metabolic disease. The RMB says nothing about the reasons or the causative factors for the Medical Board opining that it is a metabolic disease in the case of this officer.

In contra-distinction, the RMB herein categorically records in response to the question no. 2 that the disability did not exist before the Respondent entered military service and in response to question no. 5 (a) and (b) that the disability is not attributable to the officer's own negligence

[8] At paragraph nos. 66 to 74
[9] At paragraph nos. 82 to 84

or misconduct, at internal page 5 of the RMB[10]. The answers to these questions show that the said opinion of the Medical Board is a conclusion, which is not substantiated by any reasons [Re: **Rajumon T.M**. (supra)]. Therefore, this as well cannot be a sufficient reason for opining NANA.

15. In these facts, since no other causal connection for the diseases has been found to exist by the Medical Board, the plea of disability pension has been wrongly rejected by the Military establishment.

16. In view of the aforesaid findings, the Petitioners' challenge to the grant of disability element of pension to the Respondent by the Tribunal, is without any merits. The Respondent has been rightly held to be entitled to the disability pension, even under the Entitlement Rules, 2008.

17. Additionally, we note that the impugned order is dated 03.08.2023 and the petition has been filed on 24.02.2026 without any explanation for the inordinate delay. The present petition filed before this Court more than two years later is clearly hit by delay and laches and is also liable to dismissed on this ground as well.

18. We therefore find no merit in this petition; the petition is dismissed. Pending applications, if any, stands dismissed. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

FEBRUARY 26, 2026/IB

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