



\$~69

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

% *Date of Decision : 29.01.2026*

+ W.P.(C) 1224/2026 CM APPL. 5974/2026 CM APPL. 5975/2026

UNION OF INDIA AND ORSPetitioner
Through: Ms. Bhavya Tyagi, SPC

versus

712071 SGT BIRENDRA KUMAR RETDRespondent
Through: Ms. Deepika Sheoran, Mr. Baljeet
Singh, Mr. Abhishek Gahlyan, 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. 5975/2026 (exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 1224/2026 & CM APPL. 5974/2026(Stay)

3. This is a writ petition filed under Article 226 of the Constitution of India against the order dated 02.01.2024 passed by the Armed Forces Tribunal Principal Bench, New Delhi ['Tribunal'] in Original Application ['O.A.'] No. 1585/2019 titled as **Ex SGT Birendra Kumar v. Union of India & Ors.**, wherein the respondent has been granted the benefit of the disability element of pension for *Paranoid Schizophrenia* (Old) assessed at 40% for life, rounded off to 50% for life from the date of his discharge from



the service i.e., 31.12.2018.

4. The facts giving rise to the present petition are that the respondent was discharged from the service on 31.12.2018 under clause 'on fulfilling the conditions of his enrolment'. At the time of discharge, the Release Medical Board ['RMB'] assessed his disability i.e., *Paranoid Schizophrenia* (Old) at 40% for life. The RMB opined that since the onset of the diseases was at the time when the respondent was serving at a peace station and there was no severe physical stress, the aforesaid disability was neither attributable to nor aggravated ['NANA'] by the military service.

5. The respondent's claim of disability pension was rejected by the Petitioner vide letter dated 29.06.2018 relying upon the aforesaid finding of the RMB. The respondent filed the first appeal, which was rejected vide letter dated 13.02.2020.

6. The respondent filed O.A. No. 1585/2019 before the Tribunal for grant of disability element of pension.

The respondent claimed that though the RMB records the onset of the disease of *Paranoid Schizophrenia* was in the year 2010, at a time when the respondent was serving at a peace station in Bengaluru; however, the real onset commenced when the respondent was posted in Bhuj, immediately after the earthquake occurred in the year 2002. The respondent contended that during his service in Bhuj, his duties increased manifold times and no rest was given to him. He further contended that during this time, the respondent had sought leave for taking care of his sister; however, no leave was not granted to him due to service exigencies. He contended that during this time, his sister died due to lack of proper medical treatment. He finally



contended that his disease was developed and aggravated due to the reason that he was one after the other, posted to different geographical locations and thus, the same is attributable to or aggravated by Air Force service.

7. 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.

7.1. The Tribunal at paragraph nos. 17, 20 and 22 has recorded reasons for holding that the onset of the disease may have been triggered during the petitioner's posting in 2002 at Bhuj, when the area was hit by an earthquake as well as subsequent events, to conclude that the disease is attributable and aggravated by the military service.

8. 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'].

8.1. The learned counsel for the petitioners contends that the Tribunal has overlooked Entitlement Rules, 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,

¹ 2013 (7) SCC 361



the Tribunal could not have presumed a causal connection between the disease and the service. She states in the facts of this case, that respondent was discharged on 31.12.2018 and therefore, the respondent would be governed by Entitlement Rules, 2008. She states that Entitlement Rules, 2008 have done away with the general presumption to be drawn in order to ascertain the principle of ‘attributable to or aggravated by military service’.

9. Having perused the opinion of the RMB, we are unable to agree with the submission made by the learned counsel for the petitioners that the Tribunal committed any error in granting relief to this respondent.

10. 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 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, contemplate that in

² 2014 SCC OnLine SC 1761

³ 2025: DHC: 2021-DB

⁴ 2025: DHC: 5082-DB



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; 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.

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

12. It would also be apposite to refer to the decision of the Supreme Court in **Rajumon T.M. v. Union of India**⁶, which similarly arose on the issue of entitlement of the disability pension to the servicemen for the very same disease of *Schizophrenia*. In the said case, the Medical Board had opined NANA by stating that CONSTITUTIONAL PERSONALITY DISORDER, without giving any reasons for the said opinion. The Court held that the order of the discharge of the servicemen and denial of disability pension to

⁵ 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47



the servicemen, based on a medical board opinion, which fails to provide full reasons to support the opinion cannot be said to be valid and is unsustainable in law. The Court directed that the servicemen therein was entitled to the disability pension with immediate effect. The relevant paragraphs of the said judgment are as under: -

“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.

26. In the present case, as noticed from the entries made in Part III of Form AFSMF-16, no reasons have been given by the Medical Board for their opinion that the appellant was suffering from Schizophrenia which is of a constitutional personality disorder and all the relevant columns have been left blank.

*In our view, the finding given in Para 2(d) of Part II by the Medical Board is merely an opinion or conclusion without assigning any reasons as to how the Medical Board has come to the aforesaid conclusion that the disability of the appellant is a constitutional personality disorder. **There is a difference between the “conclusion” or “opinion”, and “reasons” to support such a conclusion or opinion. The reasons have to be separately mentioned for the conclusion arrived at by the Medical Board.** The bare conclusion arrived by the Medical Board cannot be treated as the reasons for discharge of the serviceman and denial of invalid pension within the meaning of the Regulations referred to above.*

...

31. Under these circumstances, a much more liberal view ought to be adopted while dealing with the cases of discharge of servicemen from service on account of suffering from Schizophrenia as they may face several impediments and

⁶ 2025 SCC OnLine SC 1064



difficulties in proving the casual connection of the said disease with the military service.

...

36. Accordingly, **we hold that the order of discharge of the appellant and denial of disability pension to him based on a medical opinion without providing full reasons to support the opinion cannot be said to be valid.**

...

38. Resultantly, while we do not disturb the order of discharge of the appellant from service on the ground of medical invalidity due to Schizophrenia, we direct the respondents that the appellant be granted disability pension with immediate effect with all attending benefits, as per rules. However, the appellant will not be entitled to any arrears of invalid pension, except for the last three years.”

(Emphasis Supplied)

13. 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. The opinion in the RMB relied upon by the petitioner in these proceedings for disputing the respondent’s entitlement similarly fails the test of reasons as stipulated in the aforesaid judgments of the Supreme Court and this Court.

14. The respondent was enrolled in the Indian Air Force on 28.12.1995 and the disease was first discovered in the month of June 2010 (after almost 15 years of service), while he was serving at Bengaluru and therefore, the disease has indisputably arisen during his military service. The respondent admittedly did not suffer any disability before joining the armed forces as is evident from the finding recorded by the Board at question no. 2 of the internal page 5 of the opinion⁷. The respondent was discharged from service

⁷ Page 82 of the paper book



on 31.12.2018 and placed in low medical category A4G4 (P).

15. The petitioners have raised the issue of non-entitlement of the disability element of the pension solely on the ground that the Medical Board has held that the disease as NANA 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/N)	Aggravated by service (Y/N)	Not Connected with Service (Y/N)	Reason / Cause / Specific condition and period in service
PARANOID SCHIZOPHRENIA -O.L.D. (F20.0.Z09)	N	N	Y	NO, Onset while in peace. No close time connection of active Field /HAA /OPS service. No trauma or severe physical stress related to military service Ref para 54 of chapter VI of GMO 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')

(ए एच सुखकर्मा) (A. H. Sukkarma)
रक्षा से./F/LI
चिकित्सा अधिकारी/Medical Officer
2 स्कन्ध वा से/2 Wing, AF

(संदीप एन मेहता) Sandeep S Mehta
लिंग कर्मांडर/W/Ly Cdr
चिकित्सा अधिकारी/Medical Officer
2 स्कन्ध वा से/2 Wing, AF

16. The Medical Board has baldly opined that since the onset of the disease was at a peace station and there was no stress of the military service the said disease is NANA. This reason/opinion has been specifically rejected by the coordinate Benches of this Court in both **Ex. Sub Gawas Anil Madso** (supra)⁸ and **Col. Balbir Singh (Retd.)** (supra)⁹ and has been held to be an invalid ground for denying attributability to the military service. Therefore, the opinion of the RMB is unsustainable in law.

In fact, the RMB categorically records that the disability is not attributable to the officer's own negligence or misconduct, at internal page 5 of the RMB¹⁰. In these facts, since no other causal connection for the disease has been found to exist by the Medical Board, the plea of disability pension

⁸ At paragraph nos. 82 to 84

⁹ At paragraph nos. 66 to 74



cannot be rejected by the Military establishment, and the officer would be entitled to disability pension.

17. We are of the considered opinion that the RMB relied upon by the petitioners/authorities for denying disability element of pension to the respondent is devoid of reasons, which are mandated under the Entitlement Rules, 2008 and therefore, the respondent has been rightly held to be entitled to disability element of pension by the Tribunal.

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

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JANUARY 29, 2026/msh/MG

¹⁰ Page 82 of the paper-book