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

% *Date of Decision : 29.01.2026*

\+ **W.P.(C) 14905/2025**

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

Through: T.P. Singh, SPG

versus

EX SGT UTTAM KUMAR RAK .....Respondent

Through: None

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

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

CM APPL. 61342/2025 *(Exemption)*

1. Exemption is allowed, subject to all just exceptions.

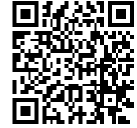
2. The application stands disposed of.

W.P.(C) 14905/2025 & CM APPL. 61341/2025

3. The present writ petition has been filed under Article 226 of the Constitution of India against the order dated 23.11.2023 passed by the Armed Forces Tribunal, Principal Bench, New Delhi ['Tribunal'] in Original Application ['O.A'] No. 182/2019 titled as **Ex SGT Uttam Kumar Rai vs. Union of India & Ors**.

4. The relevant facts, briefly stated, giving rise to the present writ petition are as follows:

4.1. The respondent, having been found medically and physically fit, was enrolled in the Indian Air Force on 18.11.1996 and was discharged from service on 30.11.2016 in low medical category A4G4(P).

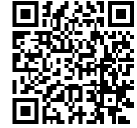


Before the discharge, the Release Medical Board ['RMB'] held on 02.05.2016 assessed the respondent's disabilities - (i) Degenerative Disc Disease L4-L5 and L5-S1 (Old) at 20% for life ['first disability'], (ii) Fracture Neck of 2nd, 3rd, 4th Metatarsal (RT) (Old) at 20% for life ['second disability'] and (iii) Fracture Patella (RT) (OPTD) (OLD) at 30% for life ['third disability'], compositely assessed at 60% for life.

4.2. The Medical Board opined that the respondent's first disability was conceded to have been aggravated by military service; and the respondent's third disability was attributable to military service. Consequently, the respondent was sanctioned the disability element of pension at the rate of 40% for life in respect of his first and third disability.

4.3. The respondent's second disability was, however, held to be neither attributable to nor aggravated ['NANA'] by Air Force service. Aggrieved by the rejection of disability pension for the said disability, the respondent sent a Legal Notice cum Appeal dated 13.10.2018. The said appeal was rejected vide letter dated 28.12.2018, stating that only first and third disability was attributable by the military service.

4.4. Thereafter, the respondent filed O.A. No. 182/2019 before the Tribunal; vide impugned order, the Tribunal held that the respondent is *also* entitled for disability element of pension for his second disability i.e., Fracture Neck of 2nd, 3rd, 4th Metatarsal (RT) (Old) at 20% for life along with the other two disabilities. The Tribunal concluded that the respondent is entitled for disability element of pension for all three disabilities, compositely assessed at 60% for life, to be rounded off to 75% for life, from the date of discharge.

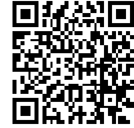


4.5. Being aggrieved by the aforementioned impugned order, the Petitioners have filed the present writ petition.

5. The petitioners have raised the issue of non-entitlement of the disability element of the pension with respect to the respondent's second disability on the ground that the Medical Board has held that the disability is NANA to military service and there is no causal connection between the disability and the military services.

5.1. The petitioners contend that the Tribunal has overlooked the 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 disability to be NANA, the Tribunal could not have presumed a causal connection between the disease and the service. It is stated that in the facts of this case, the respondent was discharged on 30.11.2016 and therefore, the respondent would be governed by the Entitlement Rules, 2008. It is stated that the impugned order incorrectly applies the presumption under the repealed Entitlement Rules for Casualty Pensionary Awards, 1982 ['Entitlement Rules, 1982'] ignoring the amended regime under Entitlement Rules, 2008. It is stated 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'.

6. Having perused the reason recorded in the opinion of the RMB for opining second disability as NANA, 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.



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**[1] and W.P.(C) 140/2024 titled **Union of India vs. Col. Balbir Singh (Retd.) and other connected matters**[2], which have conclusively held that even under Entitlement Rules, 2008 an officer, who suffers from a disability/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 judgments hold that the burden to prove the disentitlement of pension therefore remains on the military department even under the Entitlement Rules, 2008.

8. For reference, we also note that the Supreme Court in its recent judgment in the case of **Bijender Singh vs. Union of India**[3] 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 reasons to be recorded by the Medical Board has been succinctly explained by the Supreme Court in another recent decision of **Rajumon T.M. v. Union of India**[4], that merely stating an opinion, such as 'CONSTITUTIONAL PERSONALITY DISORDER' without giving

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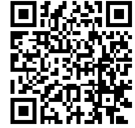
[1] 2025: DHC: 2021-DB
[2] 2025: DHC: 5082-DB
[3] 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47



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 to be NANA.

9. 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 similarly fails the test of a reasoned opinion as stipulated in the aforesaid judgments of the Supreme Court and this Court.

10. The petitioners have only raised the issue that the respondent is not entitled to disability element of pension for his <u>second disability</u> on the ground that the Medical Board has held that the said disease/disability is NANA and there is no causal connection between the said disability and the military services. The opinion rendered by the RMB is extracted as under: -

PART V

OPINION OF THE MEDICAL BOARD

(Not to be communicated to the individual)

1. Causal Relationship of the Disability with Service conditions or otherwise.

Disabilities	Attributable to service (Y / N)	Aggravated by service (Y / N)	Not Connected with Service (Y / N)	Reason / Cause / Specify condition and period in service
1. DEGENERATIVE DISC DISEASE L4- L5, L5- S1 (OLD) Z 09.0	No	Yes	No	Due to stress and strain of service as per para 51 pg no. 38 of GMO ver 2008
2. FACTURE NECK OF 2ND, 3RD, 4TH METATARSAL (RT) (OLD) Z 09.0	No	No	Yes	As per approved injury report dated 14 Sep 07
3. FRACTURE PATELLA (RT)(OPTD) (OLD) Z 09.0	Yes	No	No	As per approved injury report dated 29 Oct 2001

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)

Sign of individual ....

Member Release Medical Board

(Shaifu Pulani)
Flt Lt
Medical Officer
Force

President Release Medical Board

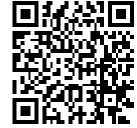
(YK Chaudhry)
Wg Cdr
CL SPLT (COM ...)
OIC SHO

CONFIDENTIAL

CTC

The relevant portion is pertaining to the opinion of the Medical

[4] 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36

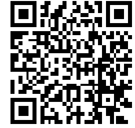


Board for the disease of Fracture Neck of 2nd 3rd, 4th Metatarsal (Rt) (Old), which holds NANA on the basis of the injury report dated 14.09.2007.

11. The injury report dated 14.09.2007 available at page 78 of the paper book records the statement of the Commanding Officer to the effect that the injury was not sustained by the respondent officer while he was on leave. From the record, it appears that this is the only reason for holding that the disability is not attributable to military service.

12. The Tribunal, while holding that the respondent is entitled to the disability element of pension in respect of his second disability, opined that there exists a causal nexus between the said disability and the military service. The Tribunal placed reliance upon the Entitlement Rules, 1982, as well as the revised Entitlement Rules, 2008, which stipulate that where a service personnel, while proceeding from his place of residence to his place of duty or while returning from the unit to his home station, suffers an accident, the injury/disability so sustained is to be treated as having occurred "on duty". The relevant provision of the Entitlement Rules, 2008 is reproduced hereinbelow:

> "9. Duty:
> For the purpose of these Rules, a person subject to the disciplinary code of the Armed Forces shall be treated on 'duty'.
> ……
> (d) When proceeding on leave/valid out pass from his duty station to his leave station or returning to duty from his leave station on leave/valid out pass.
>
> Note 1: An Armed Forces personnel while traveling between his place of to leave station and vice-versa is to be treated on duty irrespective of whether he has availed railway warrant/concession vouchers/cash TA etc or for the journey. This would also include journey performed from leave station to duty station in case the individual returns early.



Note 2: The occurrence of injury should have taken place in reaching the leave station from duty station or vice versa using the commonly available/adopted route and mode of transport.
……"

(Emphasis supplied)

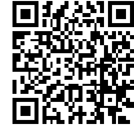
13. The Tribunal further held that the respondent sustained the injury while proceeding to his unit for the purpose of collecting his leave certificate, which is an official document mandatorily required to be carried by service personnel while proceeding on leave. On this premise, the Tribunal concluded that the injury was sustained in the course of official duty. The relevant extract from the impugned order is reproduced hereunder.

"11. Whilst the injury has not been attributed to the military service, **however, it is pertinent to mention here that the leave certificate is an official document which a person is required to carry with him while proceeding on leave. The respondents have also not refuted the fact of applicant that he was going to collect the leave certificate**. It has also been verified from the records and also from the injury report that the applicant was indeed proceeding to his unit to collect the leave certificate which was a bonafide military duty performed by him and hence the injury report has erred in declaring the said injury as not attributable to military service. **It is pertinent to note that the applicant could not have proceeded on leave without collecting the said document and, therefore, we are of the view that the injury of the applicant ought to have been assessed as attributable to military service**.

12.In view of the 'foregoing, we hold that injury sustained by the applicant while going by bike to the unit to collect the leave certificate is attributable to military service and **thus there is nexus between the disability and the military service."**

(Emphasis supplied)

14. The petitioner has neither in the grounds of the petition, nor during oral arguments disputed the aforesaid finding of the Tribunal holding that



the injury was sustained by the respondent while on duty. The Supreme Court in ***The Secretary, Government of India & Ors. v. Dharambir Singh***[5] has settled the law that a person availing casual leave or annual leave, is to be treated on duty. In the said judgment, the Supreme Court also took note of its judgment in ***Madan Singh Shekhawat v. Union of India & Ors.***[6] which held that an injury suffered while returning from or going on leave is attributable to military service. The said law was settled by the Supreme Court keeping in view Rule 12, Note 2(d) of Entitlement Rules, 1982 read with Regulation 423(a) of the Regulations for Medical Services for Armed Forces, 1983. ('Medical Regulations 1983')

Rule 12, Note 2(d) of Entitlement Rules, 1982 corresponds to Rule 9(d), Note 1 of the Entitlement Rules, 2008 and therefore, the conclusion of the Tribunal in the facts of this case, holding that the respondent was on duty when the accident occurred and the disability has a causal connection with military service is sustainable and in conformity with the law.

15. The report of the Medical Board fails to give any reasoned basis for concluding that the disability was not attributable to the military service except for making a reference to the injury report dated 14.09.2007 to conclude that there existed no causal connection between the second disability of the respondent i.e., Fracture Neck of 2nd 3rd, 4th Metatarsal (Rt) (Old) and the military services, which this Court is not persuaded to accept. The Supreme Court in ***The Secretary, Government of India & Ors. v. Dharambir Singh*** (supra)[7] held that the COI proceedings are not final for determining the causal connection of injury to the Army service. The Court

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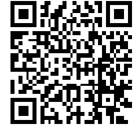
[5] Civil Appeal No. 4981/2012, Judgment dated 20.09.2019

[6] (1999) 6 SCC 459

[7] Paragraph 19



held that as per Medical Regulation 423(d) the final arbiter of the issue of causal connection of the disability to the military service will be determined by the Medical Board. In the facts of this case, the RMB has not returned any independent finding on the causal connection and has merely referred to the injury report. Therefore, in effect the RMB is silent on this issue and has therefore, been rightly disregarded by the Tribunal. The causal connection between the said disability of the respondent and his military service has been established by the Tribunal in the impugned order.

16. In view of the aforesaid findings, the petitioner's challenge to the grant of disability pension is without any merit and there is no infirmity in the impugned order dated 23.11.2023. Hence, the respondent has therefore been rightly held entitled to disability element of pension as per Entitlement Rules, 2008.

17. 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/AJ/MG