



2025:DHC:5084-DB



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

Reserved on: 18.03.2025
Pronounced on: 01.07.2025

+ **W.P.(C) 5392/2024 & CM APPL. 22204/2024**

UNION OF INDIA & ORS.Petitioners

Through: Mr. Sandeep Kumar Mahapatra,
CGSC with Mr. Tribhuvan,
Adv. Major Anish Muralidhar,
Army

versus

SUB MAJ/M TECH (OPTO ELECT) ACHYUTA PRADHAN
(RETD)Respondent

Through: Mr. H.S. Tiwari & Mr.S.S.
Pandey, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J.

1. The present petition has been filed by the petitioners, under Article 226 of the Constitution of India, seeking the following reliefs:

- "a. Stay the operation of the Order dated 10.01.2024 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 2126 of 2022 titled "Sub Maj/M Tech (Opto Elect) Achyuta Pradhan (Retd) v. Union of India & Ors";*
b. Issue a Writ or direction in the nature of Certiorari, setting aside the Order dated 10.01.2024 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in



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*Original Application No. 2126 of 2022 titled
"Sub Maj/M Tech (Opto Elect) Achyuta
Pradhan (Retd) v. Union of India & Ors"*

2. *Vide* Order dated 10.01.2024 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as the, 'Tribunal') in Original Application (O.A.) No. 2126 of 2022 titled ***Sub Maj/M Tech (OptoElect) Achyuta Pradhan (Retd) v. Union of India & Ors.***, the learned Tribunal held that the respondent is entitled to the disability element of pension at 30% for life, rounded off to 50%, from the date of his discharge for the disability of Primary Hypertension.

3. The brief facts of the case are that the respondent was enrolled in the Indian Army on 30.10.1987 and was discharged from service on completion of his tenure on 31.03.2020. Prior to his discharge from service, the respondent was subjected to a Release Medical Board (RMB) on 17.10.2019, wherein he was found to be suffering from Primary Hypertension, which was assessed at 30% for life.

4. Thereafter, the respondent submitted his initial claim for the grant of disability pension, which was rejected by the petitioners *vide* letter dated 18.03.2020. Aggrieved by the said rejection, the respondent preferred the First Appeal dated 22.01.2020 before the Appellate Committee on First Appeal (ACFA), which was rejected by the ACFA *vide* its letter dated 08.09.2020.

5. Further aggrieved by the said rejection, the respondent preferred a Second Appeal dated 30.10.2020 before the Second Appellate



Committee on Pension (SACP). The said appeal was examined by the SACP, and rejected. Thereafter, the respondent filed the O.A. before the learned Tribunal, which, upon consideration of the material on record, held that the respondent is entitled to the grant of disability pension in respect of the disability of Primary Hypertension.

6. Dissatisfied with the Impugned Order passed by the learned Tribunal, the petitioners have invoked the writ jurisdiction of this Court.

7. The learned counsel for the petitioners submits that the learned Tribunal has erred in allowing the O.A. filed by the respondent, merely by placing reliance on the judgment of the Supreme Court in *Dharamvir Singh v. Union of India*, (2013) 7 SCC 316, without appreciating that the RMB had duly assessed the disability of the respondent and found the same to be neither attributable to nor aggravated by the military service.

8. The learned counsel submitted that the rule of 'Presumption' regarding disability is no longer part of the Entitlement Rules, 2008. It was pointed out that this 'Presumption' existed under Rule 5 of the Entitlement Rules, 1982, which established a general presumption that a member of the Armed Force is deemed to have been in sound physical and mental health upon entering service, unless any physical disabilities was noted or recorded at the time of enlistment. Furthermore, if an individual was discharged on medical grounds, it was presumed that deterioration in his health had occurred due to service conditions.



9. He submitted that in terms of Rule 6 of the Entitlement Rules, 2008, there must be a causal connection between the disability or death and military service, and such a connection is a necessary pre-condition for the award of any compensation. Since the respondent retired after the coming into force of the Entitlement Rules, 2008, it is these provisions that ought to have been applied to his case.

10. *Per contra*, the learned counsel for the respondent drew our attention to the opinion of the RMB and submitted that the RMB has itself held that the disability of Primary Hypertension was aggravated by service.

11. We have heard the learned counsels for the parties and perused the record.

12. We find from the RMB proceedings that the Board had opined that the disability of Primary Hypertension was aggravated by service. The opinion of the medical board is reproduced as under:

“PART VII
OPINION OF THE MEDICAL BOARD

1. Please endorse disease/disabilities in chronological order of occurrence.

<i>Disability</i>	<i>Attributable to service (Y/N)</i>	<i>Aggravated by service (Y/N)</i>	<i>Detailed justification</i>
(i) FRACTURE BASE OF 1 ST 2 ND , 3 RD & 4 TH METATARSAL (LT) FOOT (S92.9)	Yes	No	Disability is attributable to Military Service as per IAFY-2008 by Dy Comdt, MCEME, Secunderabad dated 16 May 2015.
(ii) PRIMAR	No	Yes	Disability is



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Y HYPERTEN SION (10.0)			aggravated to Military Service as per Para 43 chapter of GMO (MII-Pen) 2008 (onset in HAA/Sikkim).”
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13. Thereafter, upon rejection of the initial claim of the respondent, he preferred the First Appeal, which was rejected *vide* letter dated 18.09.2020. The respondent then preferred a Second Appeal against this rejection. The said appeal was also rejected *vide letter* 23.03.2022. The reason for the rejection of the Second Appeal is reproduced as under:

“In the instant case, onset of the disability was while the indl was in modified field station as per authenticated posting profile. Hence, the disability Primary Hypertension is conceded as neither attributable to nor aggravated by military service in terms of Para 43, Chapter VI, GMO 2002, amendment 2008.”

14. The SACP, in its reasons, stated that the onset of the disability occurred while the respondent was posted at a modified field station, as per his posting profile. Accordingly, the Second Appeal was rejected. However, as held by us in W.P.(C) 140/2024, titled ***Union of India & Ors. v. Col. Balbir Singh (Retd.)***, rejecting the claim of disability pension on this ground cannot be sustained. Furthermore, the RMB has stated in its opinion that the onset of the disability occurred in HAA/Sikkim. Therefore, in view of the specific opinion given by the RMB, which is an expert body, that the disability of Primary Hypertension was aggravated by the military service, and



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considering the contradiction in the reasons given by the two authorities, we find no reason to interfere with the Impugned Order.

15. Accordingly, the present petition is dismissed. The pending application also stands disposed of.

SHALINDER KAUR, J

NAVIN CHAWLA, J

JULY 01, 2025/SK

Click here to check corrigendum, if any