



2025:DHC:5085-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: 18.03.2025
Pronounced on: 01.07.2025

+ **W.P.(C) 5447/2024 & CM APPL. 22490/2024**
UNION OF INDIA & ORS.Petitioners
Through: Ms. Avshreya Pratap Singh
Rudy, SPC with Ms. Usha
Jamnal, Ms. Harshita
Chaturvedi & Mr. Siddhant
Nagar, Advs. with Major Anish
Muralidhar, Army

versus
EX SUB MEHARBANRespondent
Through: Mr.Ved Prakash, Adv.

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 12.10.2023 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 1347 of 2022 titled "Ex Sub Meharban v. Union of India & Ors";
b. Issue a Writ or direction in the nature of Certiorari, setting aside the Order dated 12.10.2023 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 134 7 of 2022 titled "Ex Sub Meharban v. Union of India & Ors”

2. *Vide* Order dated 12.10.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to



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as the, 'Tribunal') in Original Application (O.A.) No. 1347 of 2022 titled *Ex Sub Meharban 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 discharge of the respondent, for the disability of Primary Hypertension.

3. The brief facts of the present case are that the respondent was enrolled in the Indian Army on 12.10.1991 and was discharged from service on completion of his tenure on 31.10.2021. Prior to his discharge from service, the respondent was subjected to a Release Medical Board (RMB) on 09.08.2021, wherein he was found to be suffering from Primary Hypertension, Dimorphic Anaemia, and Dyslipidemia, with the composite disability assessed at 36.82% for life. The medical opinion of the RMB was that the diseases of Primary Hypertension, Dimorphic Anaemia, and Dyslipidemia were neither attributable to nor aggravated by the military service.

4. Thereafter, the respondent submitted his initial claim for the grant of disability pension, which was rejected by the Army Ordnance Corps Records *vide* letter dated 07.10.2021.

5. Subsequently, the respondent preferred the aforesaid O.A. before the learned Tribunal.

6. The learned Tribunal, *vide* the Impugned Order, granted the disability element of pension to the respondent for the disability of Primary Hypertension, as the respondent had pressed his claim only for this disability.



7. Being aggrieved by the Impugned Order, the petitioners have filed the present writ petition before this Court.

8. 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 Release Medical Board had duly assessed the disability of the respondent and found the same to be neither attributable to nor aggravated by the military service.

9. 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 such '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 were noted or recorded at the time of enlistment. Furthermore, if an individual is discharged on medical grounds, it is to be presumed that the deterioration in health occurred due to service conditions.

10. On the other hand, the learned counsel for the respondent drew our attention to the Categorisation Medical Board proceedings dated 24.04.2018 and submitted that the said Board had recorded that the disability of Primary Hypertension was aggravated due to the stress and strain of the military service.



11. We have considered the submission made by the learned counsels for the parties.

12. Upon perusal of the record, we find that the Categorization Medical Board had opined that the disability of Primary Hypertension was aggravated by military service. The said opinion is reproduced hereinbelow:

17. Is the disability attributable to Service ? (Y/N): If so, please explain:- No

18. If not directly attributable to service, was it aggravated by service ? If so, please explain (Y/N): Yes due to stress and strain of military service vide para 43 chapter VI GMO 2008.

13. However, the record indicates that the RMB rejected the claim of the respondent that the disability was aggravated by service. Furthermore, the RMB has not provided any reasons for disagreeing with the findings of the earlier Categorisation Medical Board.

14. It becomes relevant to note the opinion of RMB, which is 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>(a)PRIMARY HYPERTENSION (I10)</i>	<i>NO</i>	<i>NO</i>	<i>Onset in peace not related to military service vide para 43 chapter VI of GMO (mp) 2008.</i>
<i>(b)DIMORPHIC</i>	<i>NO</i>	<i>NO</i>	<i>Onset in peace with no documents h/o.</i>



ANAEMIA (D53.9)			<i>dietary compulsion relates to military service.</i>
(c)DYSLIPI DEMIA (E78.5)	<i>NO</i>	<i>NO</i>	<i>Not related to military service as it is lifestyle disease.</i>

18. If not directly attributable to service, was it aggravated by service ? if so, please explain (Y/N): Yes due to stress and strain of military service vide para 43 chapter VI GMO 2008. ”

15. The sole reason provided by the RMB for rejecting the aggravation of the disability by the military service was that the onset of disability occurred while the respondent was posted in a peace area. This, by itself, cannot be a sufficient ground, and merely stating this does not discharge the onus placed upon the RMB. The same has been observed by us in W.P.(C) 140/2024, titled ***Union of India & Ors. v. Col Balbir Singh (Retd.)***.

16. In view of the above, the learned Tribunal has rightly set aside the findings of the RMB and granted the respondent disability element of pension. We find no infirmity in the order passed by the learned Tribunal.

17. 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