



2025:DHC:5086-DB



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

+ **W.P.(C) 7280/2024 & CM APPL. 30425/2024**
UNION OF INDIA AND ORS.

.....Petitioners

Through: Mr. Ripudaman Bhardwaj,
CGSC with Mr. Kushagra
Kumar, Mr. Abhinav Bhardwaj
& Mr. Amit Kumar Rana,
Advs. Major Anish Muralidhar,
Army.

versus

COL PRASANTA KUMAR SHARMARespondent
Through: Mr. Manoj Kumar Gupta & Ms.
Devangana Sharma, 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 relief:

“a. Issue a Writ of Certiorari and/or any other appropriate Writ, order or direction calling for the records of the Impugned Judgment dated 07.02.2023 passed by the Ld. Tribunal in O.A No. 914 of 2022 titled as Col Prasanta Kumar Sharma (Retd) vs Union of India & Ors, set aside and quash the same.”

2. *Vide* Order dated 07.02.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as the, ‘Tribunal’) in Original Application (O.A.) No. 941 of 2022,



titled ***Col Prasanta Kumar Sharma (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 discharge of the respondent for the disability of Primary Hypertension.

3. The brief facts of the present case are that the respondent herein was commissioned in the Indian Army on 20.07.1985. At the time of his retirement, he was brought before a duly constituted Release Medical Board (RMB) on 09.10.2010, wherein the disability of Primary Hypertension was opined to be neither attributable to nor aggravated by military service.

4. Thereafter, the respondent submitted his initial claim for disability pension, which was adjudicated upon and rejected by the competent authority *vide* letter dated 21.02.2011. Subsequently, the respondent preferred a First Appeal on 03.08.2011 against the rejection of his disability pension claim, which was adjudicated and rejected by the Appellate Committee on First Appeals (ACFA) *vide* letter dated 30.08.2012.

5. Aggrieved by the rejection of his claim by the ACFA, the respondent thereafter preferred a Second Appeal on 25.09.2012 against the ACFA's order. The Second Appellate Committee on Pension (SACP) adjudicated upon the appeal and rejected the same *vide* communication dated 12.09.2013.

6. Consequently, the respondent filed the aforesaid O.A. before the learned Tribunal. The said application was allowed *vide* the



Impugned Order dated 07.02.2023 in respect of the disability of Primary Hypertension. Dissatisfied with this order, the petitioners have filed the present writ petition before 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' was provided 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 his health deterioration occurred due to service conditions.

9. While defending the Impugned Order, the learned counsel for the respondent drew our attention to the Categorisation Medical Board and submitted that the said Board had opined that the disability of Primary Hypertension was aggravated due to the stress and strain of military service.



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

11. 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 herein below:

		Yes
9. Is the disability attributable to Service? (Y/N)		
If so, please explain		YES (a) NO (b) NO
10. If not directly attributable to service, was it aggravated by service? (Y/N)		
If so, please explain		(a) yes due to stress & strain of mil service (b) no - non parasitic cysts
Note 1. Injury Report (For injury cases) / 14 days of service		

12. It becomes relevant to note the opinion of the RMB, which is as under:

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

<i>I. Cause/Relationship of the Disability with Service conditions or otherwise:-</i>				
<i>Disability</i>	<i>Attributable to service (Y/N)</i>	<i>Aggravated by service (Y/N)</i>	<i>Not connected with Service (Y/N)</i>	<i>Reason/Cause/Specific condition and period in service</i>
<i>(a) Primary Hypertension</i>	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>Onset in peace"</i>



13. However, in the present facts and circumstances, the record indicates that the RMB rejected the claim that the disability was aggravated by service, as opined by the earlier Categorisation Medical Board. Further, the RMB has not provided any reasons for disagreeing with the findings of the earlier Categorisation Medical Board. The sole basis for rejection by the RMB of the aggravation of the disability by military service was that the onset of disability occurred in a Peace Area. This, by itself, cannot be a sufficient ground, and merely stating such a reason 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.)*.

14. In view of the above, the learned Tribunal has rightly set aside the findings of the RMB and granted the disability element of pension to the respondent. Accordingly, we find no infirmity with the order passed by the learned Tribunal.

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