



2025:DHC:5777-DB



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

+ **W.P.(C) 14414/2024 & CM APPL. 60437/2024**

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Premtosh K. Mishra, CGSC
with Mr. Sarthak Anand and Mr. Prarabdh
Tiwari, Advs. for UOI

Sgt. Manish Kumar Singh and Sgt.
Mritunjay for UOI (Air Force Legal Cell,
DAV)

versus

SGT KAMAL KUMAR (RETD)
(SERVICE NO 797331)

.....Respondent

Through: Mr. Raj Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER (ORAL)

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17.07.2025

C. HARI SHANKAR, J.

1. We have heard Mr. Premtosh K. Mishra, learned CGSC for petitioners and Mr. Raj Kumar, learned Counsel for the respondent.

2. This writ petition assails order dated 1 February 2023 passed by the Armed Forces Tribunal¹ in OA 1448/2021.

3. The respondent, who was enrolled in the Indian Air Force on 14 December 2000 and had served the Indian Air Force for 20 years

¹ "the Tribunal", hereinafter



2025:DHC:5777-DB



before he was discharged on 31 December 2020 as suffering from “congenital bicuspid aortic valve with moderate aortic stenosis and mild aortic regurgitation”.

4. As the petitioners did not grant disability pension to the respondent, the respondent moved the Tribunal by way of OA 1448/2021.

5. By order dated 1 February 2023, the Tribunal has allowed the said OA following the judgment of Supreme Court in *Dharamvir Singh v UOI*².

6. The main contention of Mr. Mishra, learned CGSC for petitioners, is that, once the medical specialist had himself certified that the bicuspid aortic valve detected in the respondent was congenital, the respondent could not be said to be entitled to disability pension and that the Tribunal, therefore, erred in awarding the respondent’s claim.

7. We agree in part, and disagree in part.

8. Insofar as the submission that the respondent was found to be having a congenital bicuspid aortic valve is concerned, Mr. Mishra is correct.

9. Mr. Mishra has also drawn our attention in this context to para 21 of the judgment of the Supreme Court in *Ex. Gnr Laxmanram*

² (2013) 7 SCC 316



*Poonia v UOI*³, which has reproduced the following para 27 in Chapter 2 of the General Rules of Guide to Medical Officers (Military Pensions), 2002-“Entitlement: General Principles”:

“21. As referred to above, in *Dharamvir Singh case*, it was observed that it is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the General Rules of Guide to Medical Officers (Military Pensions), 2002— “Entitlement: General Principles”, relevant extract in this behalf reads as under :

“27. Para 7 talks of evidentiary value attached to the record of a member's condition at the commencement of service e.g. pre-enrolment history of an injury, or disease like epilepsy, mental disorder, etc. Further, guidelines have been laid down at Paras 8 and 9, as quoted below:

7. Evidentiary value is attached to the record of a member's condition at the commencement of service, and such record has, therefore, to be accepted unless any different conclusion has been reached due to the inaccuracy of the record in a particular case or otherwise. Accordingly, if the disease leading to member's invalidation out of service or death while in service, was not noted in a medical report at the commencement of service, the inference would be that the disease arose during the period of member's military service. It may be that the inaccuracy or incompleteness of service record on entry in service was due to a non-disclosure of the essential facts by the member e.g. pre-enrolment history of an injury or disease like epilepsy, mental disorder, etc. It may also be that owing to latency or obscurity of the symptoms, a disability escaped detection on enrolment. Such lack of recognition may affect the medical categorisation of the member on enrolment and/or cause him to perform duties harmful to his condition. Again, there may occasionally be direct evidence of the contraction of a disability, otherwise than by service. In all such cases, though the disease cannot be considered to have been caused by service, the question of aggravation by subsequent service conditions will need examination.

³ (2017) 4 SCC 697



The following are some of the diseases which ordinarily escape detection on enrolment:

- (a) Certain congenital abnormalities which are latent and only discoverable on full investigations e.g. Congenital Defect of Spine, Spina bifida, Sacralisation.
- (b) Certain familial and hereditary diseases e.g. Haemophilia, Congenital Syphilis, Haemoglobinopathy.
- (c) *Certain diseases of the heart and blood vessels e.g. Coronary Atherosclerosis, Rheumatic Fever.*
- (d) Diseases which may be undetectable by physical examination on enrolment, unless adequate history is given at the time by the member e.g. Gastric and Duodenal Ulcers, Epilepsy, Mental Disorders, HIV Infections.
- (e) Relapsing forms of mental disorders which have intervals of normality.
- (f) Diseases which have periodic attacks e.g. Bronchial Asthma, Epilepsy, Csom, etc.

8. The question whether the invalidation or death of a member has resulted from service conditions, has to be judged in the light of the record of the member's condition on enrolment as noted in service documents and of all other available evidence both direct and indirect.

In addition to any documentary evidence relative to the member's condition to entering the service and during service, the member must be carefully and closely questioned on the circumstances which led to the advent of his disease, the duration, the family history, his pre-service history, etc. so that all evidence in support or against the claim is elucidated. Presidents of Medical Boards should make this their personal responsibility and ensure that opinions on attributability, aggravation or otherwise are supported by cogent reasons; the approving authority should also be satisfied that this



question has been dealt with in such a way as to leave no reasonable doubt.

9. On the question whether any persisting deterioration has occurred, it is to be remembered that invalidation from service does not necessarily imply that the member's health has deteriorated during service. The disability may have been discovered soon after joining and the member discharged in his own interest in order to prevent deterioration. In such cases, there may even have been a temporary worsening during service, but if the treatment given before discharge was on grounds of expediency to prevent a recurrence, no lasting damage was inflicted by service and there would be no ground for admitting entitlement. Again a member may have been invalided from service because he is found so weak mentally that it is impossible to make him an efficient soldier. This would not mean that his condition has worsened during service, but only that it is worse than was realised on enrolment in the army. To sum up, in each case the question whether any persisting deterioration on the available evidence which will vary according to the type of the disability, the consensus of medical opinion relating to the particular condition and the clinical history.” ”

10. The said paragraph further refers to para 7 of the Guidelines which recognizes some diseases as ordinarily escaping detection on enrolment.

11. Among these, are “certain diseases of the heart and blood vessels, example Coronary Atherosclerosis, Rheumatic Fever”.

12. In any event, as Mr. Mishra correctly points out, the bicuspid valve of the respondent was congenital.

13. That, however, would not disentitle the respondent from



2025:DHC:5777-DB



pleading that the further conditions from which he was found to be suffering, 20 years after he joined the service, i.e. moderate aortic steniosis and mild aortic regurgitation, were attributable to or aggravated by the military service, and not inexorable sequelae to the existing bicuspid valve.

14. As this aspect was apparently never urged before the Tribunal in detail, the Tribunal did not have an occasion to apply its mind thereto, we deem it appropriate to remit the matter to the Tribunal for a fresh consideration on the respondent's entitlement to disability pension.

15. Accordingly, we quash and set aside the impugned order dated 1 February 2023.

16. OA 1448/2021 stands remitted to the Tribunal for a fresh consideration.

17. Both sides would appear before the Tribunal on the date which would be communicated by the Tribunal to learned Counsel for the parties.

18. We make it clear that we have not expressed any opinion on the entitlement or otherwise of the respondent to disability pension.

19. All issues remain to be considered by the Tribunal on merits.

20. The petition is accordingly disposed of.



2025:DHC:5777-DB



21. As it is a case of disability pension, we request the Tribunal to proceed it as expeditiously as possible, of course, keeping in mind the work pendency of the Court and comparative urgency of the matter.

22. List before the Tribunal on 12 August 2025.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JULY 17, 2025/an