



2025:DHC:2631-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 4659/2025 & CM APPL. 21558/2025, CM APPL.
21559/2025

UNION OF INDIA & ORS.Petitioners
Through: Ms. Ishita Soni, Adv. with
Major Anish Muralidhar, Army

versus

EX NB/SUB, RAM PRAVESH SINGH YADAV
.....Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)
15.04.2025

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C. HARI SHANKAR, J.

1. This writ petition assails the order dated 3 July 2023 passed by the Armed Forces Tribunal¹ whereby OA 440/2022, filed by the respondent, has been allowed. The AFT has held the respondent to be entitled to disability pension.

2. Aggrieved thereby, the UOI has approached this Court by means of the present writ petition.

3. We find that the case is fully covered by the judgment rendered

¹ "the AFT", hereinafter



by us in *UOI v Ex Sub Gawas Anil Madso*².

4. We have, in the said petition, after considering the law that is developed in this regard over the years, held that the primordial consideration which has to be borne in mind in such cases is whether, at the time of entry into military service, the concerned officer was suffering from the ailment which was detected later. If the onset of the ailment was during military service, then, unless there are clear and categorical reasons adduced by the Release Medical Board³, explaining as to why the ailment is not to be treated as attributable to military service, the presumption would lie in favour of the officer.

5. We have also noted that, under Rule 7 of the 2008 Guidelines which are presently holding the field, the officer is not required to establish that the ailment is attributable to military service and the onus in that regard lies with the establishment.

6. It is only where the claim is made more than 15 years after the officer has retired or discharged from service that the initial onus would be on the officer.

7. In the present case, the claim of the officer has not been made beyond 15 years of his retirement from service.

8. The respondent was found to be suffering from Diabetes Mellitus, 24 years after he joined service. He was certified as suffering

² 2025 SCC OnLine Del 2018

³ "RMB", hereinafter



from composite disability @ 44% for life.

9. The claim of the respondent for disability pension was placed before the RMB. In the personal declaration filed by the respondent before the RMB, he specifically stated that he was not suffering from the ailment before he joined the armed forces. This declaration has not been questioned by the petitioner either before the AFT or before this Court.

10. The reasoning which has been adopted by the petitioner for rejecting the respondent's claim and holding that the Primary Hypertension and Diabetes Mellitus Type-II from which he suffered was not attributable to military service reads thus:

“Primary Hypertension (I CD-I-10)- The onset of the Primary hypertension was during service in a peace station. There is no close-time association with stress and strain of field or high altitude service. Hence the disability is neither attributable nor aggravated by service, vide Chap-VI para 43 of GMO 2008.

Diabetes Mellitus Type-II (ICD-E-11.4)- The onset of the diabetes was during service in peace station. There is no close-time association with field service. Hence not connected to military service, Vide Chap-VI para 26 of GMO 2008.”

11. We find that the aforementioned reasoning is reproduced verbatim in case after case.

12. However, in this case, Ms. Ishita Soni, learned Counsel for the petitioners, has advanced a further contention that the OA filed by the respondent was not maintainable, as it was barred by Section 21 of the Armed Forces Tribunal Act, as the respondent had not exhausted all



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remedies available to him. She has placed reliance on Section 21 (2) of the AFT Act for this purpose.

13. On the attention of Ms. Ishita Soni being invited to communication dated 7 February 2020, whereby the petitioners have clearly rejected the respondent's claim for disability pension, her contention is that this rejection is not the rejection which is envisaged by Section 21(2) as that rejection has to be followed on a representation and no prior representation was preferred by the respondent before the aforesaid rejection order dated 7 February 2020 was passed.

14. The contention is merely stated to be rejected.

15. Once the petitioners had communicated to the respondent on 7 February 2020 stating that the claim for disability pension had been rejected, there was no further bar on the respondent approaching the Tribunal.

16. It would be completely unrealistic to expect the respondent even thereafter to move one more representation, await for its rejection and thereafter move the Tribunal.

17. The submission that the OA was not maintainable is, therefore, rejected.

18. We make it clear that the mere fact that the officer is at a peace posting at the time of onset of the disease or ailment, would not



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indicate that the ailment was not attributable to military service. In such cases, too, it would be for the RMB to examine the matter in all its perspectives and to give cogent reasons as to why the disease is not to be treated as attributable to military service.

19. This would be all the more so in a case such as the present where the first stage at which the diabetes mellitus was detected was 24 years after the respondent had joined service.

20. In view of the aforesaid, we find that the case is fully covered by the judgment passed by us in *Gawas Anil Madso*.

21. No case is made for interference with the judgment of the AFT which is affirmed in its entirety.

22. The writ petition is, accordingly, dismissed.

23. Compliance with the order of the AFT, if not already made, be ensured within a period of four weeks from today.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 15, 2025

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[Click here to check corrigendum, if any](#)