



2025:DHC:2816-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 4933/2025, CM APPL. 22663/2025 & CM APPL.
22664/2025

UNION OF INDIA & ORS.Petitioners
Through: Mr. Akash Vajpai and Ms.
Vaibhavi Mittal, Advs.

versus

MWO CHITRANJAN SINGH RETDRespondent
Through:

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

JUDGMENT (ORAL)
21.04.2025

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C. HARI SHANKAR, J.

1. This writ petition assails order dated 7 February 2023, passed by the Armed Forces Tribunal¹ in OA 1050/2022, whereby the respondent's claim to disability pension has been allowed.

2. The respondent was enrolled in the Indian Air Force on 18 November 1974. He was discharged from the service in low medical category A4G3 (P) on 29 February 2012. The Release Medical

¹ "AFT", hereinafter



Board², which convened prior thereto in March 2011, assessed the respondent as suffering from primary hypertension and diabetes mellitus, of which the degree of disability on account of primary hypertension was assessed at 30%.

3. The respondent applied for grant of disability pension. His application was rejected on the ground that the RMB had found the disabilities from which the respondent was suffering not to be attributable to or aggravated by military service.

4. Aggrieved thereby, and pressing his claim for disability pension qua the primary hypertension from which he was suffering, the respondent approached the AFT by way of OA 1050/2022.

5. By judgment dated 7 February 2023, the AFT has allowed the respondent's claim.

6. Regrettably, the present writ petition has been filed with an application seeking stay of operation of the impugned order passed by the AFT. The petition has been filed nearly two years after the AFT has passed the impugned order. While the petition is liable to be dismissed even on the ground of delay and laches, we have nonetheless examined the matter on merit, as we had taken a view in similar matter in our judgment in *UOI v Ex Sub Gawas Anil Madso*³.

² "RMB" hereinafter

³ 2025 SCC OnLine Del 2018



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7. We have gone through the record of the RMB, which reveals the following:

(i) Part-I of the RMB Report acknowledges the fact that the respondent had served the Air Force for 36 years and 4 months, before he was invalidated on medical grounds.

(ii) Admittedly, the respondent was detected as suffering from primary hypertension only in August 2004.

(iii) In the Personal Statement of the respondent, which forms part of the RMB proceedings, the respondent had answered, in response to the query as to whether he was suffering from any disability before joining the armed forces, in the negative. The correctness of this response is not questioned in the RMB or in the proceedings before the AFT or before this Court.

(iv) As such, it is an admitted position that prior to his joining the Air Force, the respondent was not suffering from primary hypertension.

(v) Insofar as the causal link between the primary hypertension from which the respondent was found to have been suffering, and the military service undergone by him, is concerned, the opinion of the RMB merely laconically states thus:



“As per para 43 Chapter VI Guide to Medical Officers Military Pension 2008”

8. We have already examined para 43 of Chapter VI of the 2008 Regulations in our decision in *UOI v Binod Kumar Sah*⁴, from which we may extract the following paragraphs:

12. Para 43 of the Chapter VI of the GMO 2008, vivisected into its individual components, specifies that, while dealing with hypertension,

(i) the RMB is required to determine whether the hypertension is primary or secondary,

(ii) if the hypertension is secondary, entitlement consideration should be directed to the underlying disease process,

(iii) where disablement for essential hypertension appears to have arisen to, or become worse in, service, it has to be considered whether service compulsion caused aggravation,

(iv) in cases where the disease has been reported after long and frequent spells of service in Field/HAA/Active Operational Areas, the case could be explained by variable response exhibited by different individuals to stressful situations and

(v) primary hypertension would be considered aggravated if it occurred while the officer was serving in field areas, HAA, CIOPS areas or prolonged afloat service.

9. Apart from this, there is no finding by the RMB to the effect that the primary hypertension from which the respondent was suffering was not attributable to the military service undergone by him.

⁴ 2025 SCC OnLine Del 2355



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CNS: NAD
R/S: NAD
P/A: NAD

Other Systems: NAD

Local Examination- NAD

Investigations: Blood Hb: 14.6 gm/dl. TLC:7200/cumm, DLC: N-60 E-04 B-OO M-03 L-33 Urine RE/ME: NAD, Sugar (F): 107 mg/dl, PP: 215 mg/dl on 07 Mar 11, Sugar (F): 103 mg/dl, PP: 136 mg/dl on 10 Mar 11 with medicine. Urea: 22 mg/dl. Creatine 0.7 mg/dl, Uric Acid: 6.0 mg/dl, Cholesterol: 149 mg/dl, TGLs-155 mg/dl, HDL: 30 mg/dl, LDL: 88 mg/dl, VLDL: 31 mg/dl, ECG (R)-CME/01/05/2011 dtd 07 Mar 11: Sinus tachycardia

X-Ray Chest PA view-CME/1706/11 dtd 07 Mar 11-Features of Pneumonic Patch.

Correlate clinically.

Fundoscopy-CME/220/3 dtd 07 Mar 11-WNL

Refer to MOPD AFCME/BHDC for opinion prior to release medical board.

Date: 14 Mar 11
Place: 3 WG AF

(DK Boro)
Sqn Ldr.
Graded Splt
AFCME. N.D.”

11. We find that, even in the opinion of the specialist, who had examined the respondent, there is no observation that the primary hypertension from which the respondent was suffering was not attributable to military service.

12. We have also observed, in our decision in *Gawas Anil Madso* that, in terms of Rule 7 of the applicable Entitlement Rules, the onus is on the Release Medical Board to prove positively that the ailment



from which the officer was found to be suffering, if it was not in existence when he inducted into service, was not attributable to military service. This would necessarily require the RMB to find the actual causative factor which was responsible for the ailment. No such attempt has been made by the RMB in the present case.

13. The AFT has correctly noted that, in the judgment in *Dharamvir Singh v UOI*⁵, the Supreme Court has observed that the stresses and strains suffered by a person in military service, especially one who has been in military service for over three decades, is likely to result in situations such as hypertension. In the absence of any other causative factor being identified by the RMB, we cannot sustain the decision of the RMB that the hypertension was not attributable to or aggravated by the military services.

14. Besides, we are exercising jurisdiction under Article 226 of the Constitution of India. We are not sitting in appeal over the decision of the AFT. Unless the AFT has acted on considerations which cannot subscribe to the law, no case for interference can be said to be made out.

15. We also find the case to be fully covered by our decision in *Gawas Anil Madso*.

16. Accordingly, for the aforesaid reasons, the writ petition is

⁵ (2013) 7 SCC 316



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dismissed in *limine*.

17. Compliance with the order of the Tribunal if not effected so far be ensured within a period of four weeks from today.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 21, 2025

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Click here to check corrigendum, if any