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

% *Date of Decision: 5th November, 2026*

\# **CNR No. DLHC010535422026**

\+ W.P.(C) 16436/2026

EX MAJ RAJEEV KUMAR .....Petitioner
Through: Mr. Rajiv Maglik, Advocate.

versus

UNION OF INDIA & ORS. .....Respondents
Through: Mr. Sharang Dhulia, CGSC with Mr. Vasuchit Anand, G.P. and Mr. Chetan Jadon, Advocate along with Major Rahul Kumar and Major Himanshu Tyagi, Army.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH
HON'BLE MR. JUSTICE GURVINDER PAL SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. This writ petition is filed by the Petitioner under Article 226 of the Constitution of India laying challenge to impugned judgment dated 06.08.2026, passed by learned Armed Forces Tribunal, New Delhi (Tribunal) in OA 1495/2016.

2. Issue notice.

3. Mr. Sharang Dhulia, learned CGSC accepts notice on behalf of the Respondents.

4. To the extent necessary, case of the Petitioner is that he was commissioned as Short Service Commissioned Officer on 12.04.2005 in Army Medical Corps (AMC) in the rank of Captain. Petitioner was

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promoted to the rank of Major on 12.10.2008 and after completing his initial term of engagement of five years, he was granted extension for five years. Petitioner is a post-graduate in Nuclear Medicine and was graded as Graded Specialist in the said field. During his postings in various hospitals, Petitioner was treating his patients using radiation therapy and was consequently exposed to radiations.

5. It is stated that during Petitioner's annual medical checkup between 2013-2014, he was diagnosed with Hypertension, Impaired Fasting Glucose and Hypothyroidism. On completion of 10 years of engagement, further extension of four years was granted vide letter dated 19.12.2014 and accordingly, tenure of the Petitioner got extended upto 12.04.2019 with a rider that he should be in SHAPE-1 by 12.10.2015. However, Petitioner could not achieve the medical category required and vide letter dated 06.08.2015, Respondents released the Petitioner from service w.e.f. 12.10.2015, with balance of annual and terminal leaves. Petitioner's claim for disability pension was rejected vide letter dated 29.01.2016 on the ground that the disabilities were neither attributable to nor aggravated by military service and therefore, Petitioner did not satisfy the eligibility conditions laid down in Regulation 37, Part-I of Pension Regulations, 2008 (Regulations 2008). First appeal dated 29.01.2016 was rejected vide letter dated 12.04.2017, whereafter Petitioner filed OA 1495/2016 before the Tribunal, which was dismissed vide impugned judgment dated 06.08.2026 *qua* the relief of disability pension. The additional relief of promotion to the rank of Lt. Col. was not adjudicated upon by the Tribunal in view of Rule 10 of the Armed Forces Tribunal (Procedure) Rules, 2008 and liberty was granted to the Petitioner to challenge the same in separate proceedings.

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6. Learned counsel for the Petitioner submits that the impugned judgment deserves to be set aside as the claim of Petitioner for disability pension has been erroneously and arbitrarily rejected by the Tribunal. Petitioner was commissioned in the Army as a Short Service Commissioned Officer on 12.04.2005 after thorough medical examination and being declared as medically fit in all respects with six months antedate seniority. There was no note in his record of any pre-existing illness or disease. Petitioner was continuously treating his patients in oncology through radiation therapy and was exposed to radiations. Due to prolonged exposure to radiations as also stress and strain of the environment he was working in, Petitioner was diagnosed with Primary Hypertension, Impaired Fasting Glucose and Hypothyroidism during his annual medical examination in 2013-2014 and consequently, downgraded to LMC P2. Release of the Petitioner from the Army was owing to his medical condition prior to completion of his tenure. It is settled law that if a member of the Force enters service without any note of pre-existing illness or disease, he is presumed to be in sound mental and physical health and any subsequent deterioration in service shall be presumed to be due to service conditions and in support of this plea, reliance in placed on the judgment of the Supreme Court in ***Dharamvir Singh v. Union of India and Others, (2013) 7 SCC 316.***

7. Learned counsel further submits that recently the Supreme Court in ***Union of India & Others v. Col. NC Isaac (Retd), 2026 SCC OnLine SC 1895*** has restated and reaffirmed the law laid down in ***Dharamvir Singh (supra)*** and held that mere addition of casual requirement and removal of presumption in Rule 5 of Entitlement Rules for Casualty Pensionary Awards

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to Armed Forces Personnel, 2008 ('Entitlement Rules, 2008') that when a member joins service healthy and leaves with a disability, it ought to be attributable to the military service, does not by itself change the core scheme of the Rules and relevant rules regarding attributability and aggravation continue to hold that if cause of disability is unknown and presumption of attributability is not rebutted, then disability is attributable to service.

8. It is urged that Release Medical Board has not recorded that the disabilities are not attributable to or aggravated by military service but has simply stated that diseases are lifestyle diseases with onset in peace station. Rule 423 of General Rules of Guide to Medical Officer specifically states that it is immaterial whether the cause giving rise to disability or death occurs in an area declared to be field or active service or under normal peace conditions and it is only essential to establish that the disability or death bore a causal connection with the service conditions. In the instant case, as a matter of record, Petitioner was constantly exposed to high dose of radiations while administering radioactive isotopes and was performing his duties under tremendous professional stress and strain and the exposure is documented in certificates issued by the HOD, Nuclear Medicine and therefore, there can be no doubt that the disabilities were directly caused due to service conditions and the rejection of the claim for disability pension by the Respondents as also the Tribunal is unjustified and illegal.

9. Learned counsel for the Respondents defends the impugned judgment and submits that Petitioner was rightly denied disability pension since his disabilities were neither attributable to nor aggravated by military service. All the three disabilities incurred by the Petitioner are idiopathic lifestyle diseases with strong genetic preponderance. Moreover, the onset of these

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conditions was in May, 2014, when Petitioner was serving in peace station at Delhi and there is no causal connection between the disabilities and military service. To buttress this plea, learned counsel relies on the findings of Release Medical Board held on 12.10.2015 and submits that primacy must be accorded to the opinion of the specialized medical experts. He also submits that since disabilities arose independent of service related factors, claim of the Petitioner is proscribed by Regulation 37 of Regulations 2008 and Rule 51 of Leave Rules for the Services Volume I – Army.

10. We have heard learned counsels for the parties and examined their submissions.

11. Perusal of the impugned judgment shows that the Tribunal has rejected the claim of the Petitioner for disability pension on the ground that there is no medical evidence on record to establish that the disabilities Impaired Fasting Glucose, Primary Hypertension and Hypothyroidism were caused or worsened by specific conditions of his military service although they were detected in May, 2014, during his service. As for the certificates relied upon by the Petitioner showing exposure to radiation and issued by HOD, Nuclear Medicine, the Tribunal has observed that these are merely working certificates documenting Petitioner's training and professional duties in administration of radioactive isotopes and do not establish any medical or causal connection between his professional duties and development of metabolic and lifestyle disorders.

12. Tribunal has further held that it is settled principle of military jurisprudence that mere detection of disease during service does not automatically entitle an individual to disability pension and a clear and objective causal nexus between service conditions and onset of disability

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must be demonstrated. In the instant case, the conditions are idiopathic in nature and typically classified as lifestyle disorders. Further, there is nothing on record to show that Thermo Luminescent Dosimeter (TLD) badge was issued to the Petitioner during his posting in the Nuclear Medicine Department, which is essential to record the specific dose of radiation an individual is exposed to and in its absence, there is no objective data to prove that Petitioner's health was adversely affected by radiation exposure. Tribunal also notes that Petitioner was not in a position to produce TLD records as they were not in his possession. Basis the finding that in the absence of quantifiable radiation data or TLD records indicating exposure levels exceeding safety thresholds and noting the lack of medical record or literature connecting disabilities of the Petitioner to his service, Tribunal concluded that the assertion of the Petitioner that professional clinical duties in Nuclear Medicine ward caused metabolic dysfunction remains speculative and medically unsubstantiated. Tribunal, therefore, rejected the claim of disability pension.

13. Having heard the counsels for the parties and on perusal of the impugned judgment passed by the Tribunal and in light of the judgments relied upon by counsel for the Petitioner, we are of the view that impugned judgment dated 06.08.2026 cannot be sustained. Indisputably, when Petitioner was commissioned in the Indian Army on 12.04.2005, he was medically fit and there is no note in the record at the time of his entry that there was any pre-existing disease or illness and it was only in 2013-2014 that Petitioner was diagnosed with Impaired Fasting Glucose, Primary Hypertension and Hypothyroidism, which was after nearly a decade from the time he was commissioned. Therefore, as rightly pointed out by counsel

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for the Petitioner, in terms of the judgment of the Supreme Court in ***Dharamvir Singh (supra),*** a presumption arises that the disabilities contracted in service are attributable to service conditions *sans* any evidence to the contrary brought forth by the Respondents. In this context, we may profitably refer to the judgment in ***Col. NC Isaac (supra),*** where the Supreme Court held that mere addition of a casual requirement and removal of presumption that when a member joins service healthy and leaves with a disability, it ought to be attributable to the military service, does not by itself, change the core scheme of Entitlement Rules, 2008 because the other beneficial provisions broadly remained untouched. The onus to prove that the member's disability is not attributable to service still lies on the employer. The relevant rules regarding attributability and aggravation continue to hold that if cause of disability is unknown and presumption of attributability is not rebutted, then the disability is attributable to service. Rule 7 of Entitlement Rules, 2008 read with Regulations for the Medical Services of the Armed Forces, 2010 continue to generate a reasonable benefit of doubt in favour of service member. Rule 9 of Entitlement Rules, 1982 provides that onus of proof is not on the claimant who is declared disabled from service, to prove his entitlement on pension and Rule 7 of Entitlement Rules, 2008, broadly carries forward this rule position and continues to place the onus of proof on the employer. Relevant passages from the judgement are as follows:-

> *"**i. No significant change in core scheme***
> *30. Having conducted a comparative analysis of the modifications in the Entitlement Rules, 2008, our opinion against each subject is as follows –*
>
> ***30.1. Presumption at Entry of Service**: Rule 5 of the Entitlement Rules, 1982 clearly creates a presumption that a member of service is in sound physical and mental health at the time of entrance, and as such, any disability at the time of discharge would be attributable to military service.*

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Rule 5 of the Entitlement Rules, 2008 withdraws this presumption by adding a causal connection requirement. It notes 'mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service'.

***30.2. Causal Connection**: Rule 8 of the Entitlement Rules, 1982 and Rule 6 of the Entitlement Rules, 2008 even though the framing is different, in substance, are identical. Rule 8 requires an appropriate medical authority to certify the causal connection, while Rule 6 of the Entitlement Rules, 2008 requires an appropriate authority to establish a causal connection.*

***30.3. Onus of Proof:** Rule 9 of the Entitlement Rules, 1982 holds that the ex-servicemen will receive a reasonable benefit of doubt and that they shall not be called upon to prove their disability is attributable to service. Rule 7 of the Entitlement Rules, 2008 broadly carries forward this rule position and continues to place the onus of proof on the employer.*

30.4. However, this rule carves out a narrow exception to this rule, being claims made after 15 years of discharge/retirement/invalidment/release. While this exception is significant for different reasons, which shall be discussed, suffice it to say that Rule 7 of Entitlement Rules, 2008 broadly carries forward Rule 9 of Entitlement Rules, 1982.

***30.5. Aggravation:** Rule 20 of the Entitlement Rules, 1982 operates for servicemen who have disabilities which may not be attributable to service, but may have been aggravated by service. It assumes aggravation unless it is specifically proved that aggravation was not caused due to service. Rule 11 of the Entitlement Rules, 2008 not only reproduces an identical scheme from the earlier rule, but also further clarifies the Rule by noting that "disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions".*

***30.6. When cause of disability is unknown:** Rule 20(a) of the Entitlement Rules, 1982 concedes attributability to military service in cases where the cause of disease is unknown. Rule 10(b)(iii) of the Entitlement Rules, 2008 parallels this logic and only clarifies that attributability is to be conceded on basis of clinical picture and current scientific medical application.*

***30.7. Conclusion:** The mere addition of a causal requirement and a removal of the presumption that when a member joins service healthy, and, if, he leaves with a disability, it ought to be attributable to the military service, does not, by itself, change the core scheme of the Entitlement Rules, 2008 because the other beneficial provisions broadly remain untouched. The onus to prove that the member's disability is not attributable to service still lies on the employer. The relevant rules regarding attributability and aggravation continue to hold that if cause of disability is unknown, and presumption of attributability is not rebutted, then the disability is attributable to service. Rule 7 of the Entitlement Rules, 2008 read with Rule 423 of the RMSAF, 2010 continue to generate*

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a reasonable benefit of doubt in favour of the service member.

xxx *xxx* *xxx*

31.1. *The aforementioned High Court judgments in Bhaskaran, Anil Madso and Col. Balbir Singh converge with our opinion that even though Entitlement Rules, 2008 removed the automatic presumption and strengthened the requirement of causal nexus, they did not dismantle the claimant-protective structure of the Rules, particularly the continued allocation of primary burden to the establishment and beneficial principles governing attributability, aggravation and reasonable doubt. Bhaskaran reaches the same conclusion that the onus of proof is similar, with a minor caveat (reversal of onus in belated claims), and, that attributability/aggravation to military service can be established through causal connection, which, in our opinion, existed in Entitlement Rules, 1982 as well. Anil Madso recognises that the Entitlement Rules, 2008 removed the earlier presumption under Rule 5, but still holds that this did not automatically shift the burden of establishing entitlement onto the claimant, since Rule 7 continues to place the initial burden on the establishment."*

14. Contrary to the law laid down by the Supreme Court in the aforesaid judgments, the Tribunal has held that mere detection of disease during service does not automatically entitle an individual to the disability pension and clear and objective casual nexus between service conditions and onset of disability must be demonstrated. This observation is in the teeth of the presumption of attributability of the disability incurred in service to its conditions, in the absence of the employer discharging the onus of proving that the disability was owing to a factor extraneous to service conditions or to any factor attributable to the individual. Tribunal completely overlooked the fact that Respondents did not discharge this onus. Instead, Petitioner successfully demonstrated that being a Graded Specialist in Nuclear Medicine Department, he was serving in the specialized High Dose Therapy ward of Army Hospital (R&R), where he was constantly exposed to high dose radiations while administering radioactive isotopes and the nature of his duties involved professional stress and strain. The exposure to radiation

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is well documented in the numerous certificates issued by Brig. MS Chauhan, HOD, Nuclear Medicine, which were placed on record before the Tribunal. Petitioner has also established that he performed these duties from 01.01.2011 to 31.12.2013 in the Nuclear Medicine Department and subsequently, in the High Dose Therapy ward from 28.05.2015 to 17.08.2015. From the certificates, it is also clear that Petitioner was responsible for administration of high dose radioactive isotopes, including 131I(High & Low Dose), 131I-M1BG, 90Y-Colloids and 153Sm. This, in our view, was enough to establish a casual connection between Petitioner's professional duty and the disabilities incurred, assuming the Tribunal was right that the connection was required to be established.

15. Unfortunately, Tribunal has brushed aside the certificates by observing that these were merely working certificates documenting Petitioner's training and professional duties in administration of radioactive isotopes and do not establish any medical connection or casual connection between his professional duties and development of metabolic and lifestyle disorders. This, in our view, is an erroneous appreciation of the certificates, which indisputably establish the fact that Petitioner was posted in a department where he was exposed to radiations and his working conditions owing to the environment and the nature of disease he was treating were indeed stressful.

16. Tribunal has also erred in laying over emphasis on non-production of TLD badge by the Petitioner. As counsel for Petitioner explains to us, the badge is essential to record the specific dose of radiation to which an individual is exposed. As per the Tribunal, in the absence of this badge, there is no objective data to prove that Petitioner's health was adversely

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affected by exposure to radiation. Petitioner has taken a categorical stand that although he was directed to produce the TLD badge by the Tribunal, he was unable to do so as he was not in possession of the same and it was for the Respondents to produce the document and we agree. Moreover, Petitioner also rightly takes a stand that the TLD badge only measures acute external exposure to prevent deterministic thresholds, whereas the thyroid dysfunction from which Petitioner was suffering is caused by chronic cumulative low dose exposure and internal handling of unsealed radioactive isotopes, which is duly supported by medical literature placed on record by the Petitioner. Also, the important aspect of the matter is that in terms of the judgments of the Supreme Court in ***Dharamvir Singh (supra)*** and ***Col. NC Isaac (supra),*** it was not for the Petitioner to discharge the onus of attributability of the disabilities to military service and the onus was completely on the Respondents. Tribunal has proceeded in a manner contrary to this position in law and placed the onus on the Petitioner including the onus of producing objective data of the extent of exposure to radiations, which is a completely misconceived approach.

17. We also do not agree with the stand of the Respondents that Petitioner is disentitled to disability pension since the onset of the disabilities was in peace station. This issue is no longer *res integra.* Division Bench of this Court in ***HFL Youdhisthir Singh Retd. v. Union of India & Others, 2026 SCC OnLine Del 2747,*** was dealing with a case of disability pension in respect of 'Primary Hypertension' and one of the contentions of Union of India was that the onset of disease was in peace station. Rejecting this argument, Court allowed the writ petition and set aside the order of the Tribunal dismissing the Original Application filed by the Petitioner, relying

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on the judgment in ***Union of India and Others v. Col. Balbir Singh (Retd), 2025 SCC OnLine Del 7873,*** wherein it was held that whether a disability or death occurs in field or active service area or under normal peace conditions, is immaterial as even in peace stations, military service is inherently stressful due to combination of factors such as strict discipline, long working hours, limited personal freedom and constant readiness for deployment. The psychological burden of being away from family, living in isolated or challenging environments and coping with uncertainty of sudden transfers or duties adds to this strain. Additionally, toll of continuous combat training further contributes to mental fatigue. Despite absence of active conflict or challenges of hard area postings, the demanding nature of military life at peace stations can significantly impact the overall well-being of personnel. Relevant passages from the judgment in ***Col. Balbir Singh (Supra)*** are as follows:-

> *"**66**. It would also be important to note the provision relevant to attributability, that is, Regulation 423 of the Regulations for the Medical Services of the Armed Forces, 2010. The said provision reads as under:*
>
> > *"423.(a). For the purpose of determining whether, the cause of a disability or death resulting from disease is or not attributable to Service. **It is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a Field Area/Active Service area or under normal peace conditions. It is however, essential to establish whether the disability or death bore a causal connection with the service conditions.***
> >
> > *All evidences both direct and circumstantial will be taken into account and benefit of reasonable doubt, if any, will be given to the individual. The evidence to be accepted as reasonable doubt for the purpose of these instructions should be of a degree of cogency, which though not reaching certainty, nevertheless carries a high degree of probability. In this connection, it will be remembered that proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. If the evidence is so strong against an individual as to leave only a remote possibility in his/her favor, which can be dismissed with the sentence "of course it is possible but not in the least probable" the*

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case is proved beyond reasonable doubt. If on the other hand, the evidence be so evenly balanced as to render impracticable a determinate conclusion one way or the other, then the case would be one in which the benefit of the doubt could be given more liberally to the individual, in case occurring in Field Service/Active Service areas.

(b). Decision regarding attributability of a disability or death resulting from wound or injury will be taken by the authority next to the Commanding officer which in no case shall be lower than a Brigadier/Sub Area Commander or equivalent. In case of injuries which were self-inflicted or due to an individual's own serious negligence or misconduct, the Board will also comment how far the disablement resulted from self-infliction, negligence or misconduct.

(c). The cause of a disability or death resulting from a disease will be regarded as attributable to Service when it is established that the disease arose during Service and the conditions and circumstances of duty in the Armed Forces determined and contributed to the onset of the disease. Cases, in which it is established that Service conditions did not determine or contribute to the onset of the disease but influenced the subsequent course of the disease, will be regarded as aggravated by the service. Adisease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in Service if no note of it was made at the time of the individual's acceptance for Service in the Armed Forces. However, if medical opinion holds, for reasons to be stated that the disease could not have been detected on medical examination prior to acceptance for service, the disease will not be deemed to have arisen during service. ……"

***67**. This provision was summarized in Rajumon T.M. (supra), wherein it was observed as under:*

"17. A careful examination of Regulation 423 of the Regulation for Medical Services for Armed Forces would reveal the following aspects:

1. It is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions

2. It is, however, essential to establish that the disability or death bore a casual connection with the service conditions.

3. All evidence, both direct and circumstantial, will be taken into account and benefit of reasonable doubt, if any, will be given to the individual.… … … …"

***68**. From a plain reading of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010, it is clear that whether a disability or death occurs in a Field/Active service area or under normal*

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Peace conditions is immaterial.

***69**. Nonetheless, it must be noted that even in Peace Stations, military service is inherently stressful due to a combination of factors such as strict discipline, long working hours, limited personal freedom, and constant readiness for deployment. The psychological burden of being away from family, living in isolated or challenging environments, and coping with the uncertainty of sudden transfers or duties adds to this strain. Additionally, the toll of continuous combat training further contributes to mental fatigue. Despite the absence of active conflict or the challenges of hard area postings, the demanding nature of military life at peace stations can significantly impact the overall well-being of personnel.*

***70**. Undisputably, even when not on the front lines or in hard areas, soldiers are aware that the threat is never far away. This environment, where danger is a constant reality for their peers and could become their own at any moment, creates a persistent state of mental and emotional strain that cannot be overlooked. Thus, military service, whether in peace locations or operational zones, inherently carries stress that may predispose Force personnel to medical conditions such as hypertension.*

***71**. Moreover, it must be noted that lifestyle varies from individual to individual. Therefore, a mere statement that a disease is a lifestyle disorder cannot be a sufficient reason to deny the grant of Disability Pension, unless the Medical Board has duly examined and recorded particulars relevant to the individual concerned.*

***72**. Having taken note of the aforesaid, it is pertinent to refer to the decision of the Co-ordinate Bench in Union of India v. WO Binod Kumar Sah (Retd) in W.P. (C) 3918/2025, wherein it has been held as under:*

> *"13. The mere fact that para 43 states that, in the case of an officer who was serving in field areas, HAA, CIOPS or was on prolonged afloat service when hypertension was first detected, there would be a presumption that the hypertension was attributable to, or aggravated by, military service, does not imply, as a sequitur, that, in all other cases, the presumption would be otherwise. The contrapositive cannot be implied.*
>
> *14. If an officer has undergone military service for 22 years before he was found suffering from hypertension, there can, in our reckoning, be no manner of doubt that an onerous duty would be cast on the RMB to establish that the hypertension was not attributable to, or aggravated by, military service. This would have to be established by cogent material, after garnering all requisite evidence. The Supreme Court has already laid down the nature of the exercise which has to be undertaken by the RMB in such cases."*

***73**. A reading of the above reinforces that disability pension cannot be*

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> *denied solely on the ground that the onset of the disability occurred while the Force personnel were posted at Peace Station. Furthermore, it is evident that when Force personnel have rendered prolonged military service, there exists a substantial onus on the RMB to establish that the hypertension is not attributable to or aggravated by military service.*
>
> ***74**. It is disheartening that members of our Armed Forces are being denied disability pension solely on the aforementioned ground. This overlooks the continuous physical and mental stress faced by soldiers, regardless of their location."*

18. In light of the aforesaid judgments, we cannot agree with the Respondents that the mere fact that the disabilities incurred by the Petitioner arose while he was posted at peace stations, will be enough to deny the claim of disability pension *sans* any evidence to the contrary, which would demonstrate any other factor being responsible for the disabilities.

19. For all the aforesaid reasons, we set aside the impugned judgment dated 06.08.2026 passed by the Tribunal in OA 1495/2016 as also orders dated 29.01.2016 and 12.04.2017, whereby Respondents rejected the claim of the Petitioner for disability pension and direct the Respondents to grant disability pension to the Petitioner w.e.f. 13.10.2015. The arrears shall be paid within three months from today, failing which Respondents shall be liable to pay interest @ 6% p.a., till the date of actual payment.

20. Writ petition stands allowed and disposed of to the aforesaid extent.

JYOTI SINGH, J

GURVINDER PAL SINGH, J

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