



2025:DHC:5462-DB



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

Date of decision: 09.07.2025

+ W.P.(C) 8222/2025

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr.Nitinjya Chaudhry, SPC
with Ms.Vidhi Gupta and
Mr.Rahul Mourya, Advs.
Major Anish Muralidhar, Army

versus

HAV BHAGWAN SINGH (RETD)

.....Respondent

Through: *None.*

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL.35966/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 8222/2025 & CM APPL.35965/2025

2. This petition has been filed by the petitioners under Article 226 of the Constitution of India, seeking the following reliefs:

- “a. Issue an appropriate Writ or writ in the nature of Certiorari or directions setting aside the Order dated 20.03.2023 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 1357 of 2022 titled “Sub Govind Singh (Retd) v. Union of India & Ors”; and*
- b. Stay the operation of the Order dated*



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20.03.2023 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 1357 of 2022 titled “Sub Govind Singh (Retd) v. Union of India & Ors.”

3. *Vide* Order dated 28.03.2024 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as the ‘Tribunal’) in Original Application No. 1572/2023 (hereinafter referred to as the ‘O.A.’), titled ***Hav Bhagwan Singh (Retd.) v. Union of India & Ors.***, the learned Tribunal held that the respondent is entitled to the disability element of pension at 20% for life, rounded off to 50%, from the date of his discharge, for the disability of Diabetes Mellitus Type-II. The learned Tribunal further directed that the arrears shall be disbursed to the respondent within four months from the date of receipt of the order, failing which the same shall carry interest at the rate of 6% per annum until the actual date of payment. However, the arrears were restricted to a period of three years prior to the date of filing of the O.A. or the date of the respondent’s retirement, whichever is later.

4. Briefly stated, the facts of the present case are that the respondent was commissioned into the Indian Army on 30.09.2003 and was discharged from service upon completion of his tenure on 31.05.2020. While the respondent was posted at Mathura, he was diagnosed with Diabetes Mellitus Type-II and was recommended to be placed in Low Medical Category P3 (T-24). However, he completed the full length of his service.

5. At the time of his retirement, since the respondent was placed in



“ PART VII

OPINION OF THE MEDICAL BOARD

1. Please endorse diseases/disabilities in chronological order of occurrence

<i>Disability</i>	<i>Attributable to service (Y/N)</i>	<i>Aggravated by service (Y/N)</i>	<i>DETAILED JUSTIFICATION</i>
<i>DIABETES MELLITUS TYPE-2 (E11)</i>	<i>NO</i>	<i>NO</i>	<i>The disability is neither attributable nor aggravated by military service as per para 26 chapter VI of G.M.O.-2008.</i>

Note: 1. A detailed justification regarding the board's recommendations on the entitlement for each disease/disability must be provided sequentially especially in NANA cases as per enclosed Appendix 'A'.

2. In case of multiple disabilities or inadequate space, do not paste over the opinion, an additional sheet should be attached instead, providing a detailed justification, which is authenticated by the President and all members of the Medical Board.

3. In case the medical board differs in opinion from the previous medical board, a detailed justification explaining the reasons to differ should be brought out clearly.

4. A disability cannot simultaneously be both attributable to or aggravated by military service, only one or neither of which will apply.”

14. Even in Appendix A to the RMB, there is only a vague statement that the disability suffered by the respondent is not related to service. No reason for reaching this conclusion is, however, stated.

15. From the above, it emerges that the RMB has merely stated that the disability is neither attributable to nor aggravated by military service, without stating any reasons for the said opinion.

16. At this stage, it becomes relevant to note the decision of the Coordinate Bench of this Court in ***Union of India & Ors. v. Ex Sub Gawas Anil Madso***, 2025:DHC:2021-DB, wherein it was held that the onus remains on the RMB to substantiate its opinion with cogent reasons. The relevant portion reads as under:



“ 80. Even then, the responsibility would remain with the RMB to demonstrate, in its Report, with cogent reasons to be stated in the Report that, though the disease was not present at the time of induction of the officer in service, it was equally not attributable to the military service undergone by the officer. This would require, in its wake, the Report to fix attributability of the disease on some other factor, other than the military service being undergone by the officer. The RMB cannot seek to content itself with a bald statement that, in its opinion, the disease or ailment, though contracted during the tenure of military service of the officer, was not attributable to such service.....”

17. The same has also been observed by us in the judgment of *Union of India & Ors. v. Col Balbir Singh (Retd.)*, 2025:DHC:5082-DB.

18. In the present case, the RMB has given no reasons for holding that the disability is neither attributable to nor aggravated by military service. In view of the above, the learned Tribunal has rightly set aside the findings of the RMB and granted the respondent the disability element of pension. We find no infirmity in the order passed by the learned Tribunal.

19. Accordingly, the present petition is dismissed. The pending application also stands disposed of.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 9, 2025/sg/DG