



2025:DHC:5463-DB



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

Date of decision: 09.07.2025

+ W.P.(C) 8277/2025

UNION OF INDIA & ORS.

.....Petitioners

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

versus

SUB GOVIND SINGH (RETD)

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL.36070/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 8277/2025 & CM APPL.36069/2025

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 28.03.2024 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 1572/2023 titled as, ‘Hav Bhagwan Singh V. Union of India & Ors’; and*
- b. Stay the operation of the Order dated*



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28.03.2024 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 1572/2023 titled as, 'Hav Bhagwan Singh V. Union of India & Ors'."

3. *Vide* Order dated 20.03.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as the "Tribunal") in Original Application No. 1357/2022(hereinafter referred to as the, 'O.A.'), titled ***Sub Govind Singh (Retd) v. Union of India & Ors.***, the learned Tribunal held that the respondent is entitled to the disability element of pension @ 30% for life, rounded off to 50%, from the date of his discharge, for the disability of Primary Hypertension.

4. The brief facts of the present case are that the respondent was commissioned into the Indian Army on 27.08.1993 and was discharged from service upon completion of his tenure on 31.08.2021. While the respondent was posted at Kachrapara, West Bengal, he was diagnosed with Primary Hypertension and was recommended to be placed in the Low Medical Category P2 (P). However, he completed the full length of his service.

5. At the time of his retirement, since the respondent was placed in the Low Medical Category, he was examined by a duly constituted Release Medical Board (RMB). As per the RMB proceedings dated 17.05.2021, the disability of the respondent, namely Primary Hypertension, was assessed at 30% for life and was held to be neither attributable to nor aggravated by military service. As a result, he was held not entitled to the grant of disability pension upon his discharge



on 31.08.2021.

6. The respondent, therefore, filed an initial disability claim, which was adjudicated and rejected by the Competent Authority *vide* letter dated 24.08.2021. Aggrieved by the said decision, the respondent preferred a First Appeal on 14.12.2021 against the rejection of his disability pension claim. However, the said appeal was rejected by the Appellate Committee on 19.04.2022.

7. Dissatisfied with the rejection of his claim for disability pension, the respondent filed the aforesaid O.A. before the learned Tribunal.

8. The learned Tribunal, *vide* the Impugned Order, allowed the O.A., basing its decision on ***Dharamvir Singh v. Union of India & Ors.***, (2013) 7 SCC 316.

9. The petitioners, Union of India, through the present petition, assail the Impugned Order passed by the learned Tribunal and have invoked the writ jurisdiction of this Court, challenging the same on the ground that the RMB had clearly opined that the respondent's medical condition was neither attributable to nor aggravated by military service. Thus, according to the petitioners, the respondent is not entitled to the disability element of pension.

10. The learned counsel for the petitioners submits that the learned Tribunal erred in allowing the O.A. filed by the respondent merely by relying on the judgment of the Hon'ble Supreme Court in ***Dharamvir Singh v. Union of India & Ors.***, (2013) 7 SCC 316, without appreciating that the RMB had duly assessed the respondent's disability and had found it to be neither attributable to nor aggravated



by military service.

11. The learned counsel further submitted that the rule of ‘presumption’ regarding disability is no longer part of the Entitlement Rules, 2008. It was pointed out that such a presumption existed under Rule 5 of the Entitlement Rules, 1982, which established a general presumption that a member of the Armed Forces is deemed to have been in sound physical and mental health upon entering service, unless any physical disabilities were noted or recorded at the time of enlistment. Furthermore, if an individual is discharged on medical grounds, it is to be presumed that the deterioration in health occurred due to service conditions.

12. We have considered the submissions made by the learned counsel for the petitioners.

13. At the outset, it becomes relevant to note the opinion of the RMB, which is as under:

“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>(a) PRIMARY HYPERTENSION (ICD – i 10)</i>	<i>NO</i>	<i>NO</i>	<i>Ref Para 43 CH 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



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clearly.

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

14. In Appendix A with the RMB, the only reason given for holding that the disability of the respondent was not attributable or aggravated by military service, was that it was detected while the respondent was posted in a ‘peace area’.

15. This, by itself, cannot be a sufficient ground for holding that the disability is not attributable to or aggravated by service. We place reliance on the judgment of this Court in *Union of India & Ors. v. Col Balbir Singh (Retd.)*, 2025:DHC:5082-DB.

16. In view of the above, the learned Tribunal has rightly set aside the findings of the RMB and granted the respondent disability element of pension. We find no infirmity in the order passed by the learned Tribunal.

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

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 9, 2025/sg/DG