



2025:DHC:6117-DB



\$~4 (Special Bench)

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

***Date of decision: 25.07.2025***

+ W.P.(C) 7103/2024 & CM APPL. 29659/2024

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr.Satya Ranjan Swain, SPC  
with Mr.Kautilya Birat, Adv.  
for UOI  
Gp Capt V. Sridhar, Sgt.  
Manish Kumar Singh and Sgt.  
Mritunjay, Air Force Legal Cell

versus

GP CAPT T KUMARESAN RETD S NO 17662.....Respondent

Through:

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**NAVIN CHAWLA, J. (ORAL)**

1. The present petition under Article 226 of the Constitution of India, has been filed by the petitioners, seeking the following reliefs:

*“a. Stay the operation of the Order dated 06.07.2023 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 48 of 2020 titled " Gp Capt T Kumaresan (Retd) v. Union of India & Ors”;*

*b. Issue a Writ or direction in the nature of Certiorari, setting aside the Order dated 06.07.2023 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 48 of 2020 titled "Gp Capt T Kumaresan(Retd) v. Union of India & Ors".”*

2. By the Order dated 06.07.2023, passed by the learned Armed



Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as, “Tribunal”) in O.A. 48/2020, titled *Capt T. Kumaresan (Retd.) v. Union of India & Ors.*, the learned Tribunal held that the respondent herein is entitled to the disability element of pension for the disability of Primary Hypertension at the rate of 30% for life, rounded off to 50%, from the date of his retirement.

3. Briefly stated, the facts giving rise to the present petition are that the respondent was commissioned into the Indian Air Force on 30.08.1984 and superannuated on 31.05.2018. When the respondent was posted at Sulur, Tamil Nadu, he was diagnosed with Primary Hypertension. Prior to his superannuation, the respondent was subjected to a Release Medical Board (‘RMB’) on 30.10.2017, wherein he was found to be suffering from Primary Hypertension, with the disability being assessed at 30% for life. The medical opinion rendered by the RMB stated that the said disability was neither attributable to nor aggravated by military service. As a result, he was held not entitled to the grant of disability pension upon his superannuation on 31.05.2018.

4. Thereafter, the respondent filed an initial disability claim, which was adjudicated upon and rejected by the Competent Authority *vide* letter dated 23.08.2018. Aggrieved thereby, the respondent sent a Legal Notice-cum-Representation dated 22.11.2019 to the Headquarters (DAV) for the grant of the disability element of pension, which was replied to on 24.12.2019.

5. Aggrieved by the response received, and dissatisfied with the



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

6. 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.

7. Being aggrieved by the Impugned Order passed by the learned Tribunal in the aforesaid O.A., the petitioners have approached this Court seeking the setting aside of the Impugned Order, on the ground 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.

8. The learned counsel for the petitioners submits that the learned Tribunal erred in allowing the O.A. filed by the respondent merely by placing reliance on the judgment of the Supreme Court in *Dharamvir Singh* (supra), without appreciating that the RMB had duly assessed the disability of the respondent and found the same to be neither attributable to nor aggravated by military service.

9. The learned counsel submits 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 his health occurred due to service conditions.

10. We have considered the submissions made by the learned counsels for the petitioners.

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

**“PART-V**  
**OPINION OF THE MEDICAL BOARD**

*Casual relationship of the disability with service conditions or otherwise:*

<i>Disabilities</i>	<i>Attributable to service (Yes/No)</i>	<i>Aggravated by service (Yes/No)</i>	<i>Not connected with service</i>	<i>Reason/Cause specific conditions and period of service</i>
<i>Primary Hypertension (Old) I-10, Z09.0</i>	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>Onset of disability on Sep 2013 at a peace station, Sulur. It is a life style disorder. There is no close time association with HAA/CI OPS/Field area. Therefore disability is considered neither attributable nor aggravated by service as per para 43 of chapter VI of GMO military pension 2008. There was no delay in diagnosis/treatment.</i>

*Note: A disability not connected with service would be neither attributable nor aggravated by service. (This is in accordance with instructions contained in ‘Guide to Medical Officers (Medical Pension) 2008).’*

12. The reasons provided by the RMB for holding that the disability of the respondent was not attributable to or aggravated by military service were that Hypertension is a lifestyle disorder and that it was



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detected while the respondent was posted in a 'peace area'.

13. Both the above, by themselves, cannot be a sufficient ground for holding that the disability is not attributable to or aggravated by service. Vague assertion that hypertension is a lifestyle disorder, without referring to the medical history of the respondent or his service record, which may show that the respondent was leading an extravagant lifestyle or at least a lifestyle not expected of an Armed Forces personnel, would be totally unjustified, unfounded and arbitrary. Similarly, rejecting the claim of the respondent to the grant of disability pension, stating that it was discovered when the respondent was in 'peace station' or that there was no close proximity to when he was posted in field area, is also equally arbitrary. We place reliance on the judgment of this Court in *Union of India & Ors. v. Col Balbir Singh (Retd.)*, 2025:DHC:5082-DB.

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

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

**NAVIN CHAWLA, J**

**SHALINDER KAUR, J**

**JULY 25, 2025/SJ**