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

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Date of Decision : 03.02.2026

+ **W.P.(C) 1352/2026, CM APPL. 6706/2026(Stay)**

UNION OF INDIA & ORS.

.....Petitioners

Through: Ms Archana Gaur, CGSC, Ms Ridhima Gaur and Mr Deepu Kumar, Advocates.

versus

(683581) EX MWO (HFO) ANAND KUMAR DWIVEDI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioners challenging the order dated 25.09.2024 (impugned order) passed by the Armed Forces Tribunal, Principal Bench, New Delhi (Tribunal) in Original Application No.911/2023, ('OA' for short), whereby the Tribunal has allowed the OA filed by the respondent by stating in paragraph 4 onwards as under:-

"4. The applicant was enrolled in the Indian Air Force on 11.03.1983 and discharged from service on 31.12.2020. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is



evident from the medical records. The composite disability for the ailment has also been assessed at 30%.

5. *Keeping in view the consistent stand taken by this Tribunal based on the law laid down by the Hon'ble Supreme Court in the case of Dharamvir Singh Vs. Union of India and others [(2013) 7 SCC 316] that Primary Hypertension may arise even in a peace area due to stress and strain of service, we see no reason not to allow the prayer of the applicant with regard to the disability Primary Hypertension, assessed by the competent Medical Board @ 30%.*

6. *Accordingly, we allow this OA and direct the respondents:*

(i) to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Ram Avtar (Civil Appeal No. 418/2012) decided on 10.12.2014. However, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/ discharge, whichever is lesser, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

(ii) to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

7. No order as to costs."

2. The submission of Ms Archana Gaur, learned CGSC appearing for the petitioners is that the Tribunal while allowing the OA has overlooked the fact that the disability of the respondent was neither attributable nor aggravated by the Air Force services, hence the respondent is not entitled to the disability element of pension on the ground that Primary Hypertension at



30% rounded off to 50% that too for life. She also submits that the Tribunal has overlooked the fact that, in terms of the Entitlement Rules for Casualty Pensionary awards to the Armed Forces Personnel, 2008 (Entitlement Rules of 2008), the general presumption to be drawn in order to ascertain the principle of attributable to or aggravated by the military service has been done away with.

3. We are not impressed by the submissions made by the learned counsel for the petitioners for the simple reason that the Release Medical Board ('RMB') has while considering the case of the respondent has come to the the following opinion:-

OPINION OF THE MEDICAL BOARD			
1. Please endorse diseases/disabilities in chronological order of occurrence			
Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	DETAILED JUSTIFICATION
PRIMARY HYPERTENSION (OLD)	NO	NO	<p>Onset of the disability is in Jul 2014 while he was serving in TACDE, Uttarai which is a modified field area.</p> <p>There is no delay in diagnosis, no close association with stress and strain of military service.</p> <p>Hence, the disability is not attributable to, not aggravated by service as per Para 43 of Chapter VI of GMO (Military Pension)-2008 (amended).</p>

*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.*

4. The above opinion really does not specify the reasons as to how onset of the disease happened in July 2014, while serving at Uttarai, which is a modified field area, that is peace area. Further, the RMB also does not specify the reasons as to how the disability is neither attributable nor aggravated by the Air Force service.



5. In W.P.(C) 88/2026 titled ***Union of India v. 781466 Ex. SGT Krishna Kumar Dwivedi***, decided by this Bench on 06.01.2026, our attention was drawn to the authoritative judgments of the coordinate Benches of this Court passed in W.P.(C) 3545/2025 titled ***Union of India v. Ex. Sub Gawas Anil Madso, 2025: DHC: 2021-DB*** and W.P.(C) 140/2024 titled ***Union of India vs. Col. Balbir Singh (Retd.) and other connected matters, 2025: DHC: 5082-DB***, which have conclusively held that even under Entitlement Rules, 2008 an officer, who suffers from a disease at the time of his release and applies for disability pension within 15 years from release of service, is ordinarily entitled to disability pension and he does not have any onus to prove the said entitlement. The judgments emphatically hold that even under the Entitlement Rules, 2008, the onus to prove that there is no causal connection between the disability and military service is not on the personnel but on the administration.

6. In other words, the Entitlement Rules, 2008, contemplate that in the event the Medical Board concludes that the disease, though contracted during the tenure of military service, was 'Neither Attributable Nor Aggravated' (NANA) by military service, it would have to give cogent reasons and identify the cause, other than military service, to which the ailment or disability can be attributed. The judgments hold that a bald statement in the report of the Medical Board opining 'ONSET IN PEACE STATION' would not be sufficient for the administration to deny the claim of disability pension. The judgments hold that the burden to prove the disentitlement of pension therefore remains on the administration even under the Entitlement Rules, 2008. They emphasised on the significance of the



Medical Board giving specific reasons to justify their opinion for denial of this beneficial provision to the personnel.

7. For reference, we also note that the Supreme Court in its recent judgment in the case of ***Bijender Singh vs. Union of India, 2025 SCC OnLine SC 895*** in paragraphs 45.1, 46 and 47, has reiterated that, it is incumbent upon the Medical Board to furnish reasons for opining that a disease is NANA and the burden to prove the same is on the Military Establishment.

The reasons to be recorded by the Medical Board has been succinctly explained by the Supreme Court in another recent decision of ***Rajumon T.M. v. Union of India, 2025 SCC OnLine SC 1064*** which it held that, merely stating an opinion, such as ‘CONSTITUTIONAL PERSONALITY DISORDER’ without giving reasons or causative factors to support such an opinion, is an unreasoned medical opinion. The Court explained that the said opinion of the Medical Board was merely a conclusion and would not qualify as a reasoned opinion for holding the disease/disability to be NANA.

8. The learned counsel for the petitioners contended that if the above opinion of the RMB is read meaningfully, the disease was in a modified field area that is peace area and there was no stress of the Air Force service. Such a reason was specifically rejected by the Coordinate Bench of this Court in ***Col. Balbir Singh (Retd.) and other connected matters (supra)***. The Court while granting disability pension to the officer suffering from Primary Hypertension, has held the ground to be an invalid ground. The Court in the said decision after taking note of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010 held that



the fact that the disability occurred in normal peace conditions is immaterial and the same by itself is not sufficient to deny disability pension to the officer.

9. In view of our aforesaid conclusion, we are of the view that the petitioners' action not to grant disability element of pension to the respondent, is without any merits. The respondent has been rightly granted the disability element of pension under the Entitlement Rules, 2008 by the Tribunal in the impugned order.

10. We, therefore, dismiss the petition. The pending application is also dismissed as having become infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 03, 2026
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