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

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Date of Decision : 14.01.2026

+ **W.P.(C) 479/2026**

UNION OF INDIA AND ORS.

.....Petitioners

Through: Ms. Gauri Goburdhun, SPC and
Major Anish Muralidhar in person.

versus

EX-SUB SHAILENDRA SINGH RAWAT

.....Respondent

Through: Mr. Devendra Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 2353/2026 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 479/2026 & CM APPL. 2354/2026(Stay)

3. This petition lays a challenge to the order dated 05.10.2023 (impugned order) passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal'), in Original Application No. 3058/2022. ('OA' for short).

4. This petition has been filed with the following prayers:-

- "a. Stay the operation of the Order dated 05.10.2023 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No.3058 of 2022 titled "Ex- Sub Shailendra Singh Rawat Versus Union of India and Ors.";*
- b. Issue a Writ or direction in the nature of Certiorari, setting*



aside the Order dated 05.10.2023 passed by the Ld. Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No.3058 of 2022 titled “Ex- Sub Shailendra Singh Rawat Versus Union of India and Ors.”; and / or c. Pass other and further order(s) this Hon’ble Court may deem fit and proper in the interest of justice.”

5. The facts as noted from the petition are that the respondent enrolled in the Army on 07.07.1987. During his service on 09.05.2010 to 01.11.2010, the respondent was downgraded to Low Medical Category (Temporary) S1H1A1P3E1. Thereafter, from 01.11.2010-17.04.2021, he was downgraded to Low Medical Category (Temporary) S1H1A1P3E1 for Primary Hypertension and Dyslipidaemia. He was downgraded to Low Medical Category (Permanent) S1H1A1P3E1 for two years w.e.f., 01.11.2011-01.11.2013 for the disability of Primary Hypertension.

6. On 30.11.2014, the Release Medical Board (‘RMB’, for short) opined that the respondent’s disability as neither attributable to nor aggravated by military service and not connected with military service and assessed as NIL for life for pension and granted service pension vide PCDA (P) Allahabad PPO No. 2/18439/2015. He was discharged from service on 31.07.2015 in terms of Army Rule 13(3) I (i) (a) on completion of terms of engagement of service. At the time of discharge, he was placed in low medical category S1H1A1P2 (Permanent) for the disease of Primary Hypertension.

7. The respondent approached the Competent Authority against the said order. The said authority held that the respondent is not eligible for the disability element of pension. Accordingly, the decision of Competent Authority was communicated vide letter No. JC- 570369/DP on 01.08.2015, with an option to prefer an appeal to the Appellate Committee within 6



months. The respondent appealed regarding rejection of disability pension.

8. On 28.06.2016, the Competent Authority held that, *Primary Hypertension* is a lifestyle disorder with a strong genetic predisposition, hence not attributable to service. It is stated that the onset of the same was in peace area and individual continued to serve in peace area till his release from service. Thus, it is stated that the respondent's disability is neither attributable to nor aggravated by military service and he is not entitled to the disability pension. The respondent was further advised to prefer a Second Appeal, if not, satisfied with the authority's holding. The respondent filed the second appeal.

9. On 07.03.2017, the Second Appellate Committee on Pension (SACP) examined the appeal and held that *Primary Hypertension* is neither attributable to nor aggravated by military service on the following grounds: -

'The individual was detected to be hypertensive during periodic medical examination in April 2010 while serving at Bikaner (Peace). He was managed with anti-hypertensive and his BP was controlled. At RMB, he was well controlled on medication without any target organ damage. ID "Primary Hypertension" is an idiopathic disorder with a strong genetic correlation and per se not attributable to service'.

10. Aggrieved by the same, the respondent filed the OA seeking to quash the SACP order dated 07.03.2017 and directing the petitioners herein to grant disability pension to him rounding off to 50% w.e.f his date of discharge. The Tribunal directed the petitioners to grant the respondent disability element of pension @ 30% for life which be rounded off to 50% for life from the date of retirement/discharge. Additionally, the petitioners were directed to calculate, sanction and issue necessary PPO to the



respondent within four months from the date of receipt of copy of this order, failing which, the respondent/applicant shall be entitled to interest @ 6% per annum till the date of payment.

11. Ms. Gauri Goburdhun, learned Senior Panel Counsel, appearing for the petitioner submits that the disability in question is ‘*Primary Hypertension*’ is idiopathic in origin and it is *per se* not attributable to the service rendered by the respondent and the disease aggravated in peace area. She also states that there is no document to show that hypertension is service related stress. He performed routine duties as expected, from his trade. Hence, the disability of the respondent herein is neither attributable to nor aggravated by service, which he rendered in his entire service period.

12. She would contend that, it is a lifestyle disease and is not due to military service. She also state that the, the order on Second Appeal against rejection of disability pension is justified, wherein, the following has been held:-

“Reference your letter No JC-570369/DP dt 12 May 2016

Second appeal dated 26 Apr 2016 submitted by JC-570369L Ex Sub Shailendra Singh Rawat for Disability Pension has been examined by the Second Appellate Committee on Pension (SACP) based on his service/medical documents and in the light of relevant rules/instructions on the subject. The SACP has considered his ID (Invaliding Disease), PRIMARY HYPERTENSION as neither attributable to nor aggravated military service on the following grounds. The individual was detected to be hypertensive during periodic medical examination in Apr 2010 while Serving at Bikaner (Peace) He was managed with anti-hypertensives and his BP was controlled At RMB. he was well controlled on medication without any target organ damage. ID Primary Hypertension an idiopathic disorder with a strong genetic correlation and is per se not



attributable to service Aggravation is conceded when onset occurs while serving in Fd/CI Ops/HAA In the instant case, the individual was in a peace area (Bikaner) at the time of onset At the time of his discharge, the individual was asymptomatic with good BP control and no target organ damage. The RMB has appropriately held the ID as NANA, Hence, the ID is conceded as neither attributable to nor aggravated by military service Para 43. Chap VI, GMO 2002, Amendment 2008)

In view of the above the appeal has not been accepted and the said individual is not entitled for Daily Pension One ink signed copy may be forwarded to the appellant accordingly The service/medical documents in respect of the above named individual are returned herewith”

13. She submits that the Rule 5 of the amended Entitlement Rules, 2008, clearly provides that the mere fact that a disease has manifested during the military service does not *per se* establish attributability or aggravation by the military service as the medical test at the time of entry is not exhaustive but its scope is limited to the broad physical examination and, therefore, it may not detect some dormant disease. Besides, certain hereditary, constitutional and congenial diseases may manifest later in life irrespective of service conditions.

14. She submits that the Tribunal has failed to appreciate that Rule 10 (b) (i) of Entitlement Rules, 2008, carves out two conditions for acceptance of a disease as attributable to the military service. The said conditions must be satisfied being; (a) that the disease has arisen during the period of military service; and (b) that the disease has been caused by the conditions of employment in the military service. The Rule 11 of Entitlement Rules, 2008, provides that a disability will be considered to have been aggravated by military service if the onset of the disability is hastened or the subsequent



condition, is worsened by specific conditions of military service.

15. She submits that the Tribunal has also committed an error while placing reliance upon the judgment of the Supreme Court passed in the case of *Dharamavir Singh v. Union of India & Ors., (2013) 7 SCC 316* to hold that any disease contracted during service is presumed to be attributable to military service, in case of no record of any ailment at the time of enrolment into the Military Service as the decision was rendered in the light of Entitlement Rules, 1982. She also draws comparison to the judgment of *Dharamvir Singh(supra)*, and states, it is not applicable, for following reasons :-

- a. that, it was based on the Entitlement Rules, 1982 whereas, in the present case, Entitlement Rules, 2008 applies.
- b. that, appellant in Civil Appeal was boarded out from service with effect from 01.04.1991, whereas in the present case, the respondent was discharged from service on 31.07.2015 on completion of service.
- c. that, as appellant in the Civil appeal was boarded out from service after he had put in 9 years of service, whereas respondent herein has complete service of approx. 29 years as per terms of engagement of service and
- d. that, as appellant in Civil appeal was boarded out from service on account of “Generalized seizure (Epilepsy)”, whereas in the present case, the Respondent herein was found suffering from PRIMARY HYPERTENSION and



completed his entire tenure.

16. She submits that, in case of Junior Commissioned Officer ('JCO' for short), Army Rule 13(3)(1)(i)(a) and Rule 13(3)(1)(ii) of Army Rules, 1954 carves out the ground of basic difference between an individual discharged from service on completion of service vis-à-vis an individual medically boarded out. She also submits that the Tribunal has erred in appreciating the fact that a person who has been invalided out or medically boarded out from service stands on a different footing as compared to a person who is discharged from service on completion of service with some disability which is neither attributable nor aggravated by military service. She submits that, a person who is discharged from service on completion of service draws more annual increments, service privileges, allowances and incentives as compared to those who are invalidated out from service in early period of service and therefore are deprived of multiple benefits which otherwise have accrued to them. In such circumstances, adopting the common standard for those who are invalided out from service at par with those who are superannuated with disability which is declared neither attributable nor aggravated, will result in the amalgamation of two different categories.

17. She submits that the Tribunal has failed to appreciate that a Low Medical Category officer who is discharged from service on completion of service may be granted disability element of pension only if he satisfies the conditions mentioned under Regulation 37 of the Pension Regulations for the Army 2008 Part-I.

18. She submits that the Supreme Court in *UOI & Ors vs Ex Sep R Munusamy 2022 SCC OnLine SC 892*, has held as under:-

"25. What exactly is the reason for a disability or ailment may



not be possible for anyone to establish. Many ailments may not be detectable at the time of medical check-up, particularly where symptoms occur at intervals. Reliance would necessarily have to be placed on expert medical opinion based on an in depth study of the cause and nature of an ailment/ disability including the symptoms thereof, the conditions of service to which the soldier was exposed and the connection between the cause/aggravation of the ailment/disability and the conditions and/or requirements of service. The Tribunal patently erred in law in proceeding on the basis of a misconceived notion that any ailment or disability of a soldier, not noted at the time of recruitment but detected or diagnosed at the time of his discharge or earlier, would entitle the soldier to disability pension on the presumption that the disability was attributable to military service, whether or not the disability led to his discharge, and the onus was on the employer to prove otherwise, which the Appellants in this case had failed to do.”

19. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the Tribunal was justified in granting the relief to the respondent of disability element of pension at 30% rounded off to 50% with effect from date of his discharge from his service, i.e., 31.07.2015.

20. The RMB opinion in respect of the respondent is as under:-

PART -IV DRAWALE GC-5703456

STATEMENT OF CASE

1. Chronological list of the disabilities.

Disabilities	Date of origin	Rank of indi	Place and unit serving at the time
PRIMARY HYPERTENSION	Apr 2010	Sub	Bikaner (Raj) 12 MAHAR

2. Clinical details. Attach clinical summary here giving the salient facts of

- (a) Personal and relevant family history
- (b) Specialist report
- (c) Treatment
- (d) Present condition in details

Note: Insert the clinical summary sheet between page 4&5, without any folds. No part of the attachment should protrude out of the form.



PART V

OPINION OF THE MEDICAL BOARD

1. Casual Relationship of the disability with service conditions or otherwise.				
Disability	Attributable to service (Y/N)	Aggravated by Service (Y/N)	Not connected with service (Y/N)	Reasons/cause/specific condition and pd in service
PRIMARY HYPERTENSION	NO	NO	Yes	Disability occurred while serving in peace area

Note : A disability "Not connected with service" would be neither Attributable nor Aggravated by service. (This is in accordance with instruction contained in "Guide to Medical Officer (Mil pension 2002)")

21. It is noted that the RMB only states 'not connected with service' i.e. neither attributable nor aggravated by the service. Though, the respondent had filed appeals before the higher authorities, who have also concluded as has been held by the RMB, what is important is that the medical proceedings held on 19.05.2010 states that the disability of Primary Hypertension was aggravated due to physical stress and strain of military service. The medical proceedings dated 19.05.2010, are reproduced as under:-

PART II

Details of present and previous Disabilities :

S. No.	DISABILITIES (Principal/Others)	Date/Place of origin	Previous Medical Categorisation with Date	Next Medical Categorisation Due
1	PRIMARY HYPERTENSION E-10	APR 10 BIKANER	SMAPS-1	01 NOV 10

16. Specialist Opinion. Attach the clinical summary sheet containing a brief history and present condition, after page 2 without any folds No part of the sheet should protrude out of the form.
Specialist opinion attached

17. Is the disability attributable to Service ? (Y/N)
If so, Please explain ?
NO

18. If not directly attributable to service, was it aggravated by service ? (Y/N)
If so, please explain ?
yes, due to physical stress and strain of military service.

Note: 1. Injury Report (for Injury cases) 14 days charter of duties (for IHD cases) / any other relevant document required, is to be attached and endorsement made in column 17/18.
2. Columns 17-20 should be completed only if they are not completed in initial/interim boards.

राम शर्मा
Majr Capt
मेजर/कप्तान
OIG Legal Cell
01 NOV 10

22. From the above report, the primary reason for downgrading his medical category to low medical category was because of stress and strain.



The medical category remained downgraded for the subsequent period as well till his discharge i.e., 31.07.2015. So, for the RMB to state that the disability is neither attributable nor aggravated by the military service, cannot be accepted, in view of the clear medical opinion dated 19.05.2010, which disability continued to persist till the discharge of the respondent from service.

23. We may state that the Tribunal does not deal with the medical opinion dated 19.05.2010. We having seen and reproduced the same above, are of the view that the Tribunal is justified in granting the relief to the respondent *vide* the impugned order.

24. Hence, the present petition filed by the petitioners is devoid of any merits, and as such it is dismissed. The pending application is dismissed as infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 14, 2026

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