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

% *Date of Decision : 15.01.2026*

\+ W.P.(C) 515/2026

UNION OF INDIA AND ORS

.....Petitioners

Through: Ms. Arti Bansal, CGSC, Ms. Shruti Goel, Adv.

versus

SGT MANOJ KUMAR PANDEY (RETD.)

.....Respondent

Through: Mr. Praveen Kumar, Mr. Amit Kumar and Mr. Navneet Krisha Mishra, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (*ORAL*)

CM APPL. 2497/2026

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 515/2026 CM APPL. 2496/2026

3. This petition lays a challenge to an order dated 01.10.2024 passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal') in Original Application ('OA' for short) No.3363/2023 wherein the Tribunal has allowed the OA by stating in paragraphs 3 to 6, as under:-

> *"3. The applicant was enrolled in the Indian Army on 19.06.1998 and discharged on 30.06.2018. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% for life as is evident from the medical records.*
> *4. 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 v. 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, which has been assessed by the Release Medical Board @ 30%.*
> *5. Accordingly, we partially allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% which be rounded off to 50% for life from the date of retirement i.e., 30.06.2018 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012) decided on 10.12.2014.*
> *6. Accordingly, the respondents are directed 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."*

4. The submission of learned counsel for the petitioners is primarily that the Tribunal has overlooked Entitlement Rules of 2008 which governs the issue of disability element of pension and no longer permit a blanket presumption in favour of the claimant.

5. She states, the respondent was discharged on 30.06.2018 and therefore, would be governed by the Entitlement Rules of 2008. She states

that the impugned order incorrectly applied the presumption under the repealed Entitlement Rules of 1982. Her submission is also that, when the Release Medical Board (RMB) has opined that the respondent was posted in peace area, the presumption cannot be drawn against the petitioners herein. She also states the reliance placed by the Tribunal on the judgment of the Supreme Court in the case of ***Dharamvir Singh v. Union of India and Ors., 2013 (7) SCC 361*** is misplaced as the Supreme Court in the said case was concerned with the Rules of 1982.

6. On the other hand, learned counsel for the respondent would justify the impugned order passed by the Tribunal.

7. Having heard the learned counsel for the parties, we at the outset, reproduce the opinion given by the RMB as under:-

PART V

OPINION OF THE MEDICAL BOARD

1. Casual Relationship of the Disability with service conditions of otherwise				
Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	Not connected with service (Y/N)	Reasons/ cause/specific condition and period in service
PRIMARY	NO	NO	YES	Disability occurred in
HYPERTENSION (110.0)				peace area and there was no delay in diagnosis, prior to onset individual was not posted to HAA/CI Ops/Active Operational areas, hence not attributable and aggravated in terms of Para 43 of Chapter VI of GMO 2000.

8. 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 the onus would not be upon him to prove the disability.

9. The Entitlement Rules, 2008, however, contemplate that, in the event the Medical Board concludes that the disease though contracted during the tenure of military service, was not attributable to or aggravated by military service, it would have to give cogent reasons and identify the cause, other than military service, to which the ailment or disability was attributed. The judgments hold that, a bald statement in the report would not be sufficient for the military department for denying the claim of disability pension. The burden of proof for disentitlement, therefore, remains on the department even under Entitlement Rules, 2008 and the aforesaid judgments emphasises on the significance of the RMB giving specific reasons for denial of this beneficial provision. The judgments hold that the onus to prove a causal connection between the disability and military service is not on the officer but on the administration.

10. We for benefit also note that the Supreme Court in its recent judgment in the case of ***Bijender Singh vs. Union of India and Others, 2025 SCC OnLine SC 895,*** at paragraphs 45.1, 46 and 47, has held that:

> *"45.1. Thus, this Court held that essence of the Rules is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into the service if there is no note or record to the contrary made at the time of such entry. In the event of subsequent discharge from service on medical ground, any deterioration in health would be presumed to be due to military service. The burden would be on the employer to rebut the presumption that the disability suffered by the member was neither attributable to nor aggravated by military service. If the Medical Board is of the opinion that the disease suffered by the member could not have been detected at the time of entry into service, the Medical Board has to give reasons for saying so. This Court highlighted that the provision for payment of disability pension is a beneficial one which ought to be interpreted liberally. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that upon proper physical and other tests, the member was found fit to serve in the army would give rise to a presumption that he was disease free at the time of his entry into service. For the employer to say that such a disease was neither attributable to nor aggravated by military service, the least that is required to be done is to furnish reasons for taking such a view.*
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> *46. Referring back to the impugned order dated 26.02.2016, we find that the Tribunal simply went by the remarks of the Invaliding Medical Board and Re-Survey Medical Boards to hold that since the disability of the appellant was less than 20%, he would not be entitled to the disability element of the disability pension. Tribunal did not examine the issue as to*

whether the disability was attributable to or aggravated by military service. In the instant case neither has it been mentioned by the Invaliding Medical Board nor by the Re-Survey Medical Boards that the disease for which the appellant was invalided out of service could not be detected at the time of entry into military service. As a matter of fact, the Invaliding Medical Board was quite categorical that no disability of the appellant existed before entering service. As would be evident from the aforesaid decisions of this Court, the law has by now crystalized that if there is no note or report of the Medical Board at the time of entry into service that the member suffered from any particular disease, the presumption would be that the member got afflicted by the said disease because of military service. Therefore the burden of proving that the disease is not attributable to or aggravated by military service rest entirely on the employer. Further, any disease or disability for which a member of the armed forces is invalided out of service would have to be assumed to be above 20% and attract grant of 50% disability pension.

47. Thus having regard to the discussions made above, we are of the considered view that the impugned orders of the Tribunal are wholly unsustainable in law. That being the position, impugned orders dated 22.01.2018 and 26.02.2016 are hereby set aside. Consequently, respondents are directed to grant the disability element of disability pension to the appellant at the rate of 50% with effect from 01.01.1996 onwards for life. The arrears shall carry interest at the rate of 6% per annum till payment. The above directions shall be carried out by the respondents within three months from today."

(Emphasis Supplied)

11. At this juncture, it would be apposite to refer to the judgment of the Coordinate Bench of this Court in ***Union of India v. Col. Balbir Singh (Retd.) (supra)***, wherein the Court emphasised on the significance of the

RMB recording clear and cogent reasons for denying the entitlement of disability pension to the officer. The relevant paragraphs of the said judgment are as under: -

> *"50. In this regard, it is further relevant to note the observations of the Supreme Court in the Rajumon T.M. v. Union of India &Ors., 2025 SCC OnLine SC 1064, the relevant portions of which reads as under:*
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> ……
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> ……
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> 25. *We, therefore, hold that if any action is taken by the authority for the discharge of a serviceman and the serviceman is denied disability pension on the basis of a report of the Medical Board wherein no reasons have been disclosed for the opinion so given, such an action of the authority will be unsustainable in law."*
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> *(emphasis supplied)*
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> *51. In view of the above, it is essential for the Medical Boards to record and specify the reasons for their opinion as to whether the disability is to be treated as attributable to or aggravated by military service, especially when the pensionary benefits of the Force personnel are at stake.*
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> ……
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> *53. Particularly in this milieu, it is of paramount importance that Medical Boards record clear and cogent reasons in support of their medical opinions. Such reasoning would not only enhance transparency but also assist the Competent Authority in adjudicating these matters with greater precision, ensuring that no prejudice is caused to either party.*
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> ……
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> *56. It must always be kept in view that the Armed Forces personnel, in defending this great nation from external*

> *threats, have to perform their duties in most harsh and inhuman weather and conditions, be it on far-flung corner of land, in terrains and atmosphere where limits of mans survival are tested, or in air or water, where again surviving each day is a challenge, away from the luxury of family life and comforts. It is, therefore, incumbent upon the RMB to furnish cogent and well-reasoned justification for their conclusions that the disease/disability suffered by the personnel cannot be said to be attributable to or aggravated by such service conditions. This onus is not discharged by the RMB by simply relying on when such disability/disease is noticed first.*
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> ……
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> *77. Thus, in view of the above, the RMB must not resort to a vague and stereotyped approach but should engage in a comprehensive, logical, and rational analysis of the service and medical records of the personnel, and must record well-reasoned findings while discharging the onus placed upon it."*
>
> *(Emphasis Supplied)*

12. Having seen the opinion of the RMB and also the law laid down by this Court and the Supreme Court, we are of the view that the Tribunal was justified in coming to the conclusion in the manner it has in the impugned order.

13. This we say so because the report of the RMB fails to give any cogent reasons in its finding about the disease being not attributable to the military service. It also does not give any reasons, even assuming the cause of disease due to non-military reasons, as to how respondent had suffered the disability of hypertension, which has resulted in denial of the disability element of the pension to the respondent.

14. In the facts of this case and in view of the aforesaid position of law and the opinion of the RMB, we are of the view that, no fault can be found in the order of the Tribunal. The writ petition along with pending application, being without any merit, are dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 15, 2026/sr