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

% *Date of Decision : 19.01.2026*

\+ **<u>W.P.(C) 18067/2025</u>**

UNION OF INDIA & ORS. .....Petitioners

Through: Mr. Abhishek Yadav,SPC

versus

HFO (MWO) RAJENDRA PRASAD SWAMI (RETD)

.....Respondent

Through: Mr. Prabhakar Mani Tiwari, Advs.

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

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

CM APPL. 74729/2025 *(Exemption)*

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 18067/2025 & CM APPL. 74728/2025

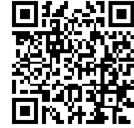
3. This petition lays a challenge to order dated 14.05.2024 passed by the Armed Forces Tribunal Principal Bench, New Delhi ('Tribunal')in Original Application No. 3056/2022 ('OA', for short), wherein, the Tribunal has

allowed the OA filed by the respondent by stating in paragraphs nos.5 & 6, as under:-

> *"5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 28.02.2021 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram A vta.r (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.*
> *7. No order as to costs."*

4. The only submission made by the learned counsel for the petitioners is that the Review Medical Board ('RMB', for short) in its report has clearly concluded that the disability of primary hypertension suffered by the respondent is due to lifestyle related reasons. It is also stated that the onset of disability was at a peace station and there is no close association to stress and strain relatable to the service.

5. In other words, the case of the petitioners is that the disability is neither attributable nor aggravated by the service. Their ground is that the order passed by the Tribunal is *per incuriam* without considering the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008 (Entitlement Rules, 2008) inasmuch as it failed to reconcile its decision with the amended Entitlement Rules, 2008 whereby, the general presumption to be drawn while ascertaining the issue of disability the



principle of attributable to or aggravated by military service has been done away with.

6. Suffice to state that the in ***Union of India & Others v. 1481129 P Ex Hav Ram Kumar, 2026, DHC, 197-DB***, this Court has held under:-

> *"9. 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 2008 Entitlement Rules, 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 2008 Entitlement Rules, 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 can be 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 to prove the disentitlement therefore remains on the military department even under 2008 Entitlement Rules and the aforesaid judgments emphasize on the significance of the Medical Board giving specific reasons for denial of this beneficial provision. The judgments hold that the onus to prove a casual connection between the disability and military service is not on the officer but on the administration.*
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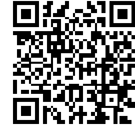
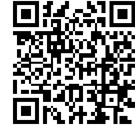
> *10. We for benefit also note that the Supreme Court in its recent opinion in the case of Bijender Singh vs. Union of India*



and Others, 2025 SCC OnLine SC 895, wherein at paragraphs 45.1, 46 and 47, the Supreme Court held as under:

"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.

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."

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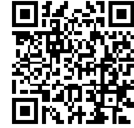
At this juncture it would be apposite to refer to the judgment of the coordinate Bench of this Court in Union of India v. Col. Balbir Singh (Retd.) (supra), wherein the Court emphasized on the significance of the Release Medical Board recording clear and cogent reasons for denying the entitlement of 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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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."

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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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.

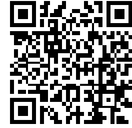
………

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.

………

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)



7. Keeping in view the aforesaid position of law, we shall examine the facts of this case.

8. The Tribunal has held that the respondent is entitled to disability element of pension for Primary Hypertension assessed at 30% for life which can be rounded off at 50% for life from the date of retirement i.e., 28.02.2021. The petitioners do not dispute the disability of the respondent as borne out from the medical record.

9. As we have noted above, the only submission of the counsel for the petitioners is the disability is not attributable to the military service. The submission cannot be accepted. The conclusion drawn by the Review Medical Board is as under:-

PART VII
OPINION OF THE MEDICAL BOARD

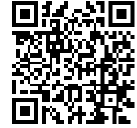
1. Please endorse diseases/disabilities in chronological order of occurrence

Disability	Attributable to service (Y / N)	Aggravated by service (Y / N)	DETAILED JUSTIFICATION
Primary Hypertension (Old) Z09	No	No	Life style disorder, Onset of the disability at peace station (Panagarh).There is no close time association stress & strain of Fd/HAA/CI OPS area. There is no delay in diagnosis & treatment. Hence the disability is considered as Not attributable/Not Aggravated by service as per Para 43 CH- VI of GMO 2008.

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.

10. The law as noted by us above is very clear. It is held that the RMB must not resort to a stereotyped approach, but should engage in a comprehensive, logical and rational analysis of the service and medical records of the concerned person. It must record reasons in its findings while discharging the onus placed upon it.

11. We find, that the RMB has not given any reasons while concluding



that the disability is neither attributable nor aggravated because of service. It also, does not give reasons, as to what were the factors relatable to life disorders which could have resulted in the respondent's disability of hypertension.

12. As the RMB has not discharged its obligation, surely a presumption need to be drawn, that the disability of the respondent is for the reasons attributable to the service. We find no merit in the present petition, the same is dismissed. The pending application is also dismissed as having become infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 19, 2026
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