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

% *Date of Decision : 21.01.2026*

\+ **W.P.(C) 854/2026**

UNION OF INDIA AND ORS .....Petitioners

Through: Mr. Shouryendu Ray, SPC with Mr. Yashendra Singhwal, Adv.

versus

HONY CAPT SUB MAJ BHARAT SINGH RETD .....Respondent

Through:

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

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

CM APPL. 4165/2026 *(Exemption)*

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 854/2026 & CM APPL. 4164/2026

3. This petition lays challenge to an order dated 14.10.2024 passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal') in Original Application No. 869/2023 ('OA', for short), whereby the Tribunal has allowed the OA filed by the respondent by stating in paragraph 7 as

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under:-

> *"7. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension for the disability of Primary Hypertension @ 30% for life rounded off to 50% for life and direct the respondents 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. Some of the facts as noted in this order are that the respondent was enrolled in the Indian Army on 28.02.1985. He was discharged from service on 31.12.2018 after putting in 33 years of service. The respondent was examined by a duly constituted Release Medical Board ('RMB') on 03.09.2018 which held the disability of Primary Hypertension at 30% for life was neither attributable to nor aggravated by military service.

5. The submission of the counsel for the petitioners is that the Tribunal has relied upon the judgment of Supreme Court in the case of ***Dharamvir Singh v. Union of India & Ors, (2013) 7 SCC 316***, which has no applicability as it pertains to Rules of 1982. He stated the presumption attributable to or aggravated by the military service has been done away with under the Entitlement Rules for Casualty Pensionary awards to the Armed Forces Personnel, 2008 ('Entitlement Rules of 2008').

6. It is the submission that the RMB has in clear terms opined that the disability of hypertension is neither attributed to or aggravated by the military service. Hence, in that sense, the respondent is not entitled to the disability element of the pension. He also relies upon the conclusion of the RMB which we reproduce as under:-

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PART V

OPINION OF THE BOARD
(Not to be communicated to the individual)

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)	Reason/ Cause/Specific condition and period in service.
PRIMARY HYPERTENSION (I-10)	NO	NO	Yes	Onset in Peace Station Refer Para 43 Chapter VI of GMO 2008.

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Note : A disability " Not connected with service" would be neither Attributable nor Aggravated by the service
(This is in accordance with instructions contained in "Guide to Medical Officers(Mil Pension- 2008)"

The RMB records onset of disability was at a peace station, which denotes sufficient reasons have been given by the RMB. It can be easily inferred that the disability of the hypertension could not have arisen because of the military service. His other submission is also that even if the RMB has not given any reasons while coming to the conclusion in the manner it has done in the opinion, this Court may remand the matter back to the RMB for a fresh determination, keeping in view the law laid down by this Court and the Supreme Court.

7. We are not in agreement with the submission made by the learned counsel for the petitioners, in view of the judgment of this Court in the case of ***Union of India & Ors. v. 1481129 P Ex Hav Ram Kumar***,

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2026:DHC:197-DB, where in paragraphs 9, 10 & 13 reads as 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.*
>
> *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:*
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> *"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*

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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,

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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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13. 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. <u>We, therefore, hold that if any action is taken by the authority for the discharge of a serviceman and the</u>

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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)

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8. Suffice to state, there is an obligation on the part of the RMB to give reasons for holding that the disability of the respondent is neither attributable to nor aggravated by the military service. We find no reasons have been given by the RMB to justify its conclusion that the disability of hypertension is not attributable to or aggravated by the military service.

9. Insofar as the submission of the learned counsel for the petitioners that the disability of hypertension has been acquired at a peace station and as such, the same cannot be attributable to the military service is concerned, the same is unmerited, in view of the conclusion drawn by this Court in the case of ***Union of India & Ors. v. Col. Balbir Singh (Retd.), 2025:DHC:5082-DB***, wherein paragraphs 66, 68 & 69, read as under:-

> *"66. It would also be important to note the provision relevant to attributability, that is, Regulation 423 of the Regulations for the Medical Services of the Armed Forces, 2010. The said provision reads as under:*
>
> > *"423. (a). For the purpose of determining whether, the cause of a disability or death resulting from disease is or not attributable to Service. It is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a Field Area/Active Service area or under normal peace conditions. It is however, essential to establish whether the disability or death bore a causal connection with the service conditions.*
> >
> > *All evidences both direct and circumstantial will be taken into account and benefit of reasonable doubt, if any, will be given to the individual. The evidence to be accepted as reasonable doubt for the purpose of these instructions should be of a degree of cogency, which though not reaching certainty, nevertheless carries a high degree of probability. In this connection, it will be remembered that proof beyond reasonable doubt does*

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not mean proof beyond a shadow of doubt. If the evidence is so strong against an individual as to leave only a remote possibility in his/her favor, which can be dismissed with the sentence "of course it is possible but not in the least probable" the case is proved beyond reasonable doubt. If on the other hand, the evidence be so evenly balanced as to render impracticable a determinate conclusion one way or the other, then the case would be one in which the benefit of the doubt could be given more liberally to the individual, in case occurring in Field Service/Active Service areas. (b). Decision regarding attributability of a disability or death resulting from wound or injury will be taken by the authority next to the Commanding officer which in no case shall be lower than a Brigadier/Sub Area Commander or equivalent. In case of injuries which were self-inflicted or due to an individual's own serious negligence or misconduct, the Board will also comment how far the disablement resulted from self-infliction, negligence or misconduct.

(c). The cause of a disability or death resulting from a disease will be regarded as attributable to Service when it is established that the disease arose during Service and the conditions and circumstances of duty in the Armed Forces determined and contributed to the onset of the disease. Cases, in which it is established that Service conditions did not determine or contribute to the onset of · the disease but influenced the subsequent course of the disease, will be regarded as aggravated by the service. Adisease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in Service if no note of it was made at the time of the individual's acceptance for Service in the Armed Forces. However, if medical opinion holds, for reasons to be stated that the disease could not have been detected on medical examination prior to acceptance for service, the disease will not be deemed to have arisen during service. …..."

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> *68. From a plain reading of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010, it is clear that whether a disability or death occurs in a Field/Active service area or under normal Peace conditions is immaterial.*
> *69. Nonetheless, it must be noted that even in Peace Stations, military service is inherently stressful due to a combination of factors such as strict discipline, long working hours, limited personal freedom, and constant readiness for deployment. The psychological burden of being away from family, living in isolated or challenging environments, and coping with the uncertainty of sudden transfers or duties adds to this strain. Additionally, the toll of continuous combat training further contributes to mental fatigue. Despite the absence of active conflict or the challenges of hard area postings, the demanding nature of military life at peace stations can significantly impact the overall well-being of personnel."*

10. One of the submissions of the learned counsel for the petitioners is that the matter be remanded back to the RMB for fresh consideration as to whether the disability of hypertension is attributable to or aggravated by the military service. We are not impressed by this submission of the learned counsel for the petitioners, this we say because a similar submission was made in the case of ***Balbir Singh (Supra)*** which was negated by this Court in paragraph 84 by stating as under:-

> *"84. In ordinary circumstances, we would have agreed with both the above submissions of the learned Attorney General, however, in the present cases, the respondents have been fighting for their entitlement for long and since we have heard the matters at considerable length, it would only be appropriate for this Court to adjudicate them rather than remanding the cases at this stage, which would result in further inconvenience and delay."*

11. In view of the above discussion, we are of the view that the Tribunal

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is justified in granting the benefit of the disability element of pension to the respondent. We find no merit in this petition, the same is dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 21, 2026/*rk*

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