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

% *Date of Decision : 22.01.2026*

\+ **W.P.(C) 18103/2025**

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

Through: Mr Nishant Gautam, CGSC and Ms Kavya Shukla Advocate with Major Anish Muralidhar in person.

versus

BRIG. SURYA DEO PRASAD .....Respondent

Through: Mr S M Dalal, Advocate.

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

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

CM APPL. 74896/2025(Exemption)

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

2. The application stands disposed of.

W.P.(C) 18103/2025 & CM APPL. 74895/2025

3. This petition has been filed by the petitioners challenging the order dated 17.08.2023 (impugned order) passed by the Armed Forces Tribunal, Principal Bench, New Delhi (Tribunal) in Original Application No. 1604/2018 ('OA' for short), whereby the Tribunal has allowed the OA filed by the respondent by stating in paragraphs 14 & 15, as under:-

> *"14. In view thereof the OA 1604/2018 is allowed, and the applicant is held entitled to the grant of the disability element of pension qua the disability of 'Primary Hypertension' assessed @ 40% for life which is directed to be broad banded to 50% for life in terms of the verdict of the Hon'ble Supreme Court in Union of*

India vs Ram Avtar decided on 10.12.2014 in Civil Appeal no. 418 of 2012 with effect from the date of his discharge, and the respondents are directed to issue the corrigendum PPO with directions to the respondents to pay the arrears within a period of three months from the date of receipt of a copy of this order, failing which, the respondents would be liable to pay interest @6% p.a. on the arrears due from the date of this order, the arrears of disability pension shall commence to be payable from a period of three years prior to the institution of the OA, instituted on 10.09.2018.

15. Learned counsel for the respondents makes an oral prayer for grant of leave to appeal in terms of Section 31 (1) of the Armed Forces Tribunal Act, 2007 to assail the aforesaid order before the Hon'ble Supreme Court. In our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order to grant leave to appeal. Therefore, the prayer for grant of leave to appeal stands declined."

4. Mr Nishant Gautam, learned CGSC appearing for the petitioners states by referring to the opinion of the Release Medical Board (RMB) that the disability of Primary Hypertension is neither attributable nor aggravated by military service. The opinion of the RMB is reproduced as under:-

PART V

OPINION OF THE MEDICAL BOARD

1. Causal 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 pd in service
(a) Primary Hypertension (I-10)	NO	NO	YES	Onset in peace stn No Significant Service Related Cause or Stressor on Record As per [illegible] Para [illegible] 2002
(b)				
(c)				

This / Annexure [illegible] is the true copy of original document

(Ajay Yadav)
Advocate

Note. A disability" Not connected with service" would be neither Attributable nor Aggravated by service. (This is in accordance with instructions contained in 'Guide to Medical Officers (Mil-Pension)-2002')

5. According to him, the RMB having given its conclusion, the Tribunal without adverting to the medical report of the respondent, has by relying upon the decision of the Supreme Court in ***Dharamvir Singh v. Union of India & Ors, (2013) 7 SCC 316***, has allowed the OA in favour of the respondent. He submits that the Tribunal has not considered the fact that under the Entitlement Rules for Casualty Pensionary awards to the Armed Forces Personnel, 2008 (Entitlement Rules of 2008), the principle of attributable to or aggravated by military service has been done away with.

6. Having noted the submissions made by Mr. Gautam, it may be stated that this Court in the case of ***Union of India & Ors. v. 1481129 P Ex Hav Ram Kumar***, ***2026:DHC:197-DB*** in paragraphs 9, 10 & 13, has held 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:

> *"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."

xxx *xxx* *xxx*

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. 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.

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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.

…….…

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. Suffice to state, the RMB has not given the reasons for its conclusion that the disability of the respondent is neither attributable to nor aggravated by the military service. In effect, there is no reasoning given by the RMB to conclude that the disability is attributable to lifestyle disorder as well.

8. One of the submissions of Mr Gautam is that onset of the disability was noted when the respondent was in peace area. The said submission does not appeal to us. The reason of the 'peace station area' has been examined and rejected by the Coordinate Benches in both ***Union of India v. Ex.Sub Gawas Anil Madso, 2025:DHC:2021-DB*** and ***Union of India v. Col. Balbir Singh (Retd) & Other connection matters, 2025:DHC:5082-DB*** to hold that this is not a valid ground to deny the causal connection of military service and the disease. So also, merely recording 'lifestyle related

disease' has been found to be insufficient and not a valid ground for denying causal connection.

9. In view of the aforesaid position of law, and also the fact that there being absence of any reasons given by the RMB, we are of the view that the Tribunal is justified in coming to the conclusion that the onset of the disability is attributable to or aggravated by the military service and the respondent is entitled to the grant of disability element of pension. Hence, this petition being devoid of any merit is dismissed. The pending application is also dismissed as having become infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 22, 2026
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