$~121

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

% *Date of Decision : 22.01.2026*

\+ **W.P.(C) 918/2026**

UNION OF INDIA & ANR. .....Petitioners

Through: Mr. Himanshu Pathak, SPC with Mr. Chetan Sharma, Adv

versus

EX NC E T CHANDRA PAL SINGH .....Respondent

Through: Mr. O.S. Punia, Adv.

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

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

CM APPL. 4524/2026 *(Exemption)*

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 918/2026 & CM APPL. 4523/2026

3. This petition has lays to challenge the order dated 09.11.2023 passed by the Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 2128/2021 ('AO'), whereby the Tribunal, has allowed the OA by stating in paragraphs 16 & 17 as under:-

> *"16. Therefore, in view of our analysis, the OA 2128/2021 is allowed and the respondents are directed to grant benefit of disability element of pension @20% for life (for DM Type II*

(Old), rounded off to 50% for life in view of judgment of the Hon'ble Apex Court in Union of India Vs. Ram Avtar (supra) from the date of discharge i.e., 30.04.2019.

17. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within three months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @6% p.a. till the actual date of payment."

4. The submission of the learned counsel for the petitioners is primary that the order of the Tribunal is perverse as it did not consider the Entitlement Rules of 2008, wherein, the general presumption that onset of disability on the principle, attributable to or aggravated by military service have been done away with.

5. We are not in agreement with the submission made by the learned counsel for the petitioners, in view of the judgment given by 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, which we reproduce 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."

(Emphasis supplied)

6. The opinion of the Release Medical Board ('RMB') is reproduced as under:-

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)	Reason/cause/specific condition and period in service
Bicuspid Aortic Valve (Old) (I 35.0,Z 09.0)	NO	NO	YES	As per Para 22 of Guide to MO pension 2008, Congenital heart disease will be conceded as neither attributable nor aggravated by service.
Diabetes Mellitus Type II (Old) (E 11.0, Z 09.0)	NO	NO	YES	As the disease is a life style disorder. Onset of the disease in peace area (New Delhi).The individual was not posted to any field/CI ops/HAA unit before onset of disabilities, as per Para 26 of Guide to MO pension 2008. Hence the disability is neither attributable nor aggravated by service.

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 MO (Mil & Pens)-2002)

7. It is clear that the Medical Board with regard to disability of Diabetes Mellitus Type-II, has stated that the disease is a lifestyle disorder and onset of the disease is at peace area. It also states that the disability is neither attributable to nor aggravated by military service.

8. The RMB except stating that it is a lifestyle disorder and the disability is not attributable to or aggravated by military service, has not given reasons in support of its opinion.

9. This Court, both in respect of lifestyle disorder and on peace area has in the judgments 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*** held that the onset of the disability was when the respondent was posted in peace area, is not a valid ground to deny the causal connection of military service and the disease. So also, recording of *'lifestyle related disease'* has been found to be insufficient and not a valid ground for denying causal connection.

10. The law being very clear, we are of the view that the Tribunal is justified in allowing the OA in favour of the respondent in the manner, it has done in the impugned order.

11. Petition being without merit is dismissed. Pending application is also dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 22, 2026/*rk*