2026:BHC-AS:3699-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1994 OF 2024

Union of India ..Petitioner
Versus
Lt. Col. S.K. Rathore Deceased,
through his widow Collen. Rathore ..Respondent

WITH
WRIT PETITION NO. 2017 OF 2024

Union of India .. Petitioner
Versus
Colonel B. K. George (Retd.) .. Respondent

WITH
WRIT PETITION NO. 2021 OF 2024

Union of India .. Petitioner
Versus
Colonel Brahmarshi Vandey (Retd.) .. Respondent

WITH
WRIT PETITION NO. 2020 OF 2024

Union of India .. Petitioner
Versus
Colonel Madhusudan Dave (Retd.) .. Respondent

WITH
WRIT PETITION NO. 2022 OF 2024

Union of India .. Petitioner
Versus
Colonel A. K. Nath (Retd.) .. Respondent

WITH
WRIT PETITION NO. 2013 OF 2024

Union of India .. Petitioner
Versus
Colonel Jagdish Jaisinghrao
Gadekar (Retd.) .. Respondent

WITH
WRIT PETITION NO. 2016 OF 2024

Union of India .. Petitioner
Versus
Colonel Ronny Dvania (Retd.) .. Respondent

WITH
WRIT PETITION NO. 2015 OF 2024

Union of India .. Petitioner
Versus
Colonel (TS) Naushirwan M. Irani (Retd.) .. Respondent

WITH
WRIT PETITION NO. 2010 OF 2024

Union of India .. Petitioner
Versus
Colonel Gulab Yasin Tamboli (Retd.) .. Respondent

WITH
WRIT PETITION NO. 2011 OF 2024

Union of India .. Petitioner
Versus
Colonel B. S. Narayan (Retd.) .. Respondent

WITH
WRIT PETITION NO. 6895 OF 2025

Union of India .. Petitioner
Versus
Captain Virendra Singh Marya (Retd.) .. Respondent

WITH
WRIT PETITION NO. 6896 OF 2025

Union of India .. Petitioner
Versus
Sarat Chandra Das (Retd.) .. Respondent

WITH
WRIT PETITION NO.6897 OF 2025

Union of India .. Petitioner
Versus
Capt. Umesh Kumar Singh .. Respondents

WITH
WRIT PETITION NO. 6898 OF 2025

Union of India .. Petitioner
Versus
Prem Kumar (Retd.) .. Respondent

WITH
WRIT PETITION NO. 6899 OF 2025

Union of India .. Petitioner
Versus
Shankar Biswas (Retd.) .. Respondent

WITH
WRIT PETITION NO. 1993 OF 2024

Union of India .. Petitioner
Versus
Col. B. V. Parkhe (Retd.) .. Respondent

WITH
WRIT PETITION NO. 4097 OF 2025

Union of India .. Petitioner
Versus
Mahadev Paul, Ex. CPO Log (Std). .. Respondent

WITH
WRIT PETITION NO.4095 OF 2025

Union of India & Ors. .. Petitioners
Versus
Shamboo Singh Yadav .. Respondent

WITH
WRIT PETITION NO.3811 OF 2025

Union of India & Ors. .. Petitioners
Versus
No. 122254 Ex MC Mech R II
Shiv Kumar Gupta .. Respondent

WITH
WRIT PETITION NO.4094 OF 2025

Union of India & Ors. .. Petitioners
Versus
Cdr Kavikant Mahapatra .. Respondent

WITH
WRIT PETITION NO.2012 OF 2024

Union of India .. Petitioner
Versus
Col Mukesh Trehan .. Respondent

WITH
WRIT PETITION NO.2018 OF 2024

Union of India .. Petitioner
Versus
Ex Naib Sub Nitin Rao Mahajan .. Respondent

WITH
WRIT PETITION NO.2023 OF 2024

Union of India .. Petitioner
Versus
Nb Risaldar Kengare Sayab U Jaysingh .. Respondent

WITH
WRIT PETITION NO.4096 OF 2025

Union of India .. Petitioner
Versus
Ex MCPO II Sant Lal .. Respondent

WITH
WRIT PETITION NO.3823 OF 2025

Union of India .. Petitioner
Versus
Hitesh Goel .. Respondent

WITH
WRIT PETITION NO. 2122 OF 2024

Union of India .. Petitioner
Versus
Ex Sigmn Mali Rajaram Vasant
M15396638M

WITH
WRIT PETITION NO.2025 OF 2024

Union of India .. Petitioner
Versus
Shahaji Hari Patil .. Respondent

WITH
WRIT PETITION NO.4172 OF 2024

Union of India .. Petitioner
Versus
Ex Sub (CLK) Khatal Ankush Anandrao .. Respondent

WITH
WRIT PETITION NO.17380 OF 2024

Union of India .. Petitioner
through Ministry of Defence
Versus
Maj. Rajgopalan C (Retd) .. Respondent

WITH
WRIT PETITION (ST) NO.5799 OF 2025

Union of India .. Petitioner

through Ministry of Defence
Versus
Ex Hav Kenjale Suryakant Jagannath .. Respondent

WITH
WRIT PETITION NO.6541 OF 2024

Union of India .. Petitioner
Versus
JC 730893A Ex Sub Bhosale Sudhir Anna .. Respondent

WITH
WRIT PETITION NO.17382 OF 2024

Union of India .. Petitioner
through Ministry of Defence
Versus
Ex Sepoy Malkar Girish Ashok .. Respondent

WITH
WRIT PETITION NO.10754 OF 2025

Union of India .. Petitioner
through Ministry of Defence
Versus
Ex Sub Gund Sahebrao Yashwant .. Respondent

WITH
WRIT PETITION NO.4201 OF 2025

Union of India & Ors. .. Petitioners
Versus
No.6393739N, Ex-Havilkar Chandrakant
Hausa Bapu Pote .. Respondent

WITH
WRIT PETITION NO.3018 OF 2025

Union of India .. Petitioner
through Ministry of Defence
Versus
Col Keerti Kumar Sharma .. Respondent

WITH
WRIT PETITION NO.10965 OF 2025

Union of India .. Petitioner
through Ministry of Defence
Versus
Ex Jwo Uma Shankar Singh .. Respondent

WITH
WRIT PETITION NO.3019 OF 2025

Union of India .. Petitioner
through Ministry of Defence
Versus
Ex Sub Shedage Sudhir Ramchandra .. Respondent

WITH
WRIT PETITION (ST) NO.18223 OF 2025
(WRIT PETITION NO. 16857 OF 2025)

Union of India .. Petitioner
Versus
Bhise Bapurao Balu .. Respondent

WITH
WRIT PETITION NO. 10967 OF 2025

Union of India .. Petitioner
Versus
Col. Arun Bhandari .. Respondent

WITH
WRIT PETITION NO. 10969 OF 2025

Union of India .. Petitioner
Versus
Ex. GNR. Jaid Vidhur Vishwanathrao .. Respondent

WITH
WRIT PETITION NO. 10964 OF 2025

Unionof India .. Petitioner
Versus
Ex. HFO Eshanti Pratap Kumar Padhi .. Respondent

WITH
WRIT PETITION (ST) NO. 25447 OF 2025

Union of India .. Petitioner
Versus
Ex. Sub. Rajendra Yashwant Bhosale .. Respondent

WITH
WRIT PETITION NO. 12968 OF 2025

Union of India .. Petitioner
Versus
Commander Birendra Prasad Singh (Retd.) .. Respondent

WITH
WRIT PETITION (ST) NO. 25583 OF 2025

Union of India .. Petitioner
Versus
CDR Rakesh Jaggi (Retd.) .. Respondent

WITH
WRIT PETITION NO. 10968 OF 2025

Union of India .. Petitioner
Versus
Lt. Col. Rajesh Kumar (Retd.) .. Respondent

WITH
WRIT PETITION NO. 12969 OF 2025

Union of India .. Petitioner
Versus
Awadhesh Singh (Ex. CPO LOG MAT) .. Respondent

WITH
WRIT PETITION (ST) NO. 27181 OF 2025

Union of India .. Petitioner
Versus
Brijesh Singh Ex. POAF .. Respondent

WITH
WRIT PETITION (ST) NO. 28195 OF 2025

Union of India .. Petitioner
Versus
Vikas Kumar .. Petitioner

WITH
WRIT PETITION (ST) NO. 28336 OF 2025

Union of India .. Petitioner
Versus
Hav. K. Muniraj .. Respondent

WITH
WRIT PETITION NO. 18057 OF 2024

Uniion of India .. Petitioner
Versus
Ex. JWO Abhay Prasad Mahapatra .. Respondent

WITH
WRIT PETITION (ST) NO. 29309 OF 2025

Union of India .. Petitioner
Versus
Chavan Dinesh Popat (Ex. Subedar) .. Respondent

WITH
WRIT PETITION (ST) NO. 28445 OF 2024

Union of India .. Petitioner
versus
Mahendra Nath Mishra .. Respondent

WITH
WRIT PETITION (ST) NO. 31522 OF 2024

Union of India .. Petitioner
Versus
Upendra Singh .. Respondent

WITH
WRIT PETITION NO. 19049 OF 2024

Union of India .. Petitioner
Versus
Pardeshi Manoj Pitambar .. Respondent

WITH
WRIT PETITION NO. 6900 OF 2025

Union of India .. Petitioner
Versus
Pradeep Kumar .. Respondent

WITH
WRIT PETITION NO. 1990 OF 2024

Union of India .. Petitioner
Versus
Colonel (TS0) Vithal Pitambar Chitte (Retd.).. Respondent

WITH
WRIT PETITION NO. 2575 OF 2025

Union of India .. Petitioner
Versus
Dayashankar Pasi, Ex MWO
(Hony Flying Officer) .. Respondent

WITH
WRIT PETITION NO. 1992 OF 2024

Union of India .. Petitioner
Versus
Col. (TS) Asim Kumar Ramendra Chandra
Dutta IC-3891 0X .. Respondent

WITH
WRIT PETITION NO. 2009 OF 2024

Union of India .. Petitioner
Versus
Lt. Col. Yesh Paul Sharma .. Respondent

WITH
WRIT PETITION NO. 2014 OF 2024

Union of India & Ors. .. Petitioners
Versus
Brig VS Kanadari, VSM (Retd.) .. Respondent

ORIGINAL SIDE
WRIT PETITION NO. 4362 OF 2024

Union OF India & Anr. .. Petitioners
Versus
K. V. Santosh .. Respondent

WITH
WRIT PETITION NO. 2802 OF 2024

Union OF India & Anr. .. Petitioners
Versus
Janardan Singh .. Respondent

WITH
WRIT PETITION NO. 2810 OF 2024

Union of India & Anr. .. Petitioners
Versus
Anan Jaiswal .. Respondent

WITH
WRIT PETITION (L) NO. 3899 OF 2024

Union of India .. Petitioners
Versus
Anand Baitule Lieutenant Commander (Retd) .. Respondent

WITH
WRIT PETITION (L) NO. 29059 OF 2024

Union of India .. Petitioner
Versus
Naresh Kumar Balbir Singh .. Respondent

WITH
WRIT PETITION (L) NO. 30051 OF 2024

Union of India .. Petitioner
Versus
Radha Shyam Gujar .. Respondent

WITH
WRIT PETITION (L) NO. 30784 OF 2024

Union of India .. Petitioner
Versus
Virendra Kumar .. Respondent

WITH
WRIT PETITION NO. 2468 OF 2024

Union of India & Anr. .. Petitioners
Versus
Sabha Jeet Singh .. Respondents

WITH
WRIT PETITION (L) NO. 39025 OF 2024

Union of India .. Petitioner
Versus
Rajesh Kumar .. Respondent

WITH
WRIT PETITION (L) NO. 39038 OF 2024

Union of India .. Petitioner
Versus
Rajeev Kumar .. Respondent

Mr. Amarendra Mishra, Advocate for the Petitioner- UOI in WP Nos. 6895/2025, 6896/2025, 6897/2025, 6898/2025, 6899/2025, 1993/2024,4097/ 2025, 17380/ 2024, 17382/2024, 10754/2025, 10965/2025, 10967/2025, 10969/2025, 12968/2025, 10968/ 2025, 12969/2025, 2009/2024, 19049/24, 6900/2025, 1994/ 2024, 1990/2024, 1992/ 2024, WP/10964/2025 and WPST Nos. 5799/2025, 25583/2025, 27181/2025 & 29309/2025.

Mr. Amarendra Mishra a/w Adv Anusha Amin, Advocates for the

Petitioner in WP/2017/2024, WP/2021/2024, WP/2020/2024, WP/2022/2024, WP/2013/2024, WP/2016/2024, WP/2015/2024, WP/2010/2024, WP/2011/2024 and WP/2014/2024.
Mr. Sagar Batavia, Advocate for the Respondent in WP/10964/2025.
Mr. Niranjan Shimpi, Advocate for the Petitioner in WP/4201/2025.
Mr. Satendra Kumar a/w Mr.Akshay Patil, Advocats for the Respondent in WP Nos.2020/2024, 3823/2025, 3019/2025, 10967/2025, Writ Petition (ST.) Nos. 27181/2025, 10968/2025, ST.28445/2025 1994/2024, 1992/2024, 4362/202, 2810/2024 & 2122/2024.
Mr. Angsuman Ojha, Advocate for the Respondent in WP Nos. 2016/2024, 1993/2024, 2012/2024 & 6899/2025.
Mr. Mahadevan Anand, Advocate for the Respondent in WP Nos.2022/2024, 1990/2024, 3018/2025, & WPSt/28336/2025.
Mr. Dinesh Kumar Bishnoi. Advocate for the Respondent in WP Nos.2010/2024, 2011/2024 and 2014/2024.
Ms. Anamika Malhotra, Advocate for the Petitioner in WP Nos.4095/2025, 3811/2025, 4094/2025, 2012/2024,2018/2024, 2023/2024,4096/2025, 3823/2025, 2025/2024, 4172/2024, 6541/2024, 3018/2025, 3019/2025,18057/2024, 2575/2025, 2122/2024 AND WP (St) Nos.18223/2025, 25447/2025, 28195/2025, 28336/2025 & 31522/2024.
Mr. Sagar.S. Ambedkar a/w Ms.Disha Nidre, Advocates for the Petitioner in WP (St)/28445/2024.
Mr. Yogendra Pratap Singh, Advocate for the Respondent in WP Nos.2015/24, 4097/2025, 3811/2025, 2018/2024, 4096/2025, 6541/2024, 4201/2025, 10969/2025, 4094/2025, 6897/2025, 19457/2024& WPST Nos. 28195/2025, 29309/25, 31522/2024 & 25447/2025.
Mr. Ranjeet Kumar Singh, Advocate for the Respondent in WP/6898/205, WP/12969/2025 & WP/4095/2025.
Mr. H.S.Verma, Advocate for the Respondent in WP Nos.4172/2024, 10965/2025 & WPSt No.5799/2025.
Mr. Dayashankar Pasi, Advocate Respondent party in person in WP/2575/2025.
Mr. Kedar Dighe, Advocate for the Petitioner in OS Writ Petition Nos.4362/2024, 2810/2024, 2802/2024, 2468/2024 and WP(L) No.3899/2024.

ORIGINAL SIDE MATTERS
Mr. Amarendra Mishra, Senior Panel Counsel for the Petitioner in Writ Petition (L) Nos.29059/2024, 30051/2024, 30784/2024, 39025/2024 and 39038/2024.

Mr. Ranjeet Kumar Singh, Advocate for the Respondent in Writ Petition (L) Nos.39038/2024 and 39025/2024.
Mr. Yogendra Pratap Singh a/w Ms. Vaishnavi Kushwah for the Respondent In Writ Petition No.2802/2024 and Writ Petition (L) Nos.3899/2024, 29059/2024, 30051/2024 and 30784/2024.

CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.

Reserved On : 8th December 2025,
Pronounced On : 23rd January 2026

JUDGMENT

Per, Shree Chandrashekhar, CJ :

This batch of writ petitions challenges the orders passed by the Armed Forces Tribunal, Mumbai in the Original Applications filed by the military personnel of the Army and Navy who have been granted disability pension by the Tribunal.

2. A disability pension can be granted to an officer who is invalided out of service on account of a disability which is either attributable to or aggravated by the military service in non-battle casualty cases and the disability is assessed at 20% or more. A disability pension consisting of service element and disability element may also be granted to a military personnel in low medical category who retires on superannuation or on completion of tenure, if found suffering on retirement from a disability which is either attributable to or aggravated by military service. In all these orders under challenge, the disease or disability pertained to primary hypertension, diabetes mellitus, dyslipidemia, symptomatic dyslipidemia, V. P. S., obesity, bilateral sensorineural hearing loss, neurilemmoma, ankylosing spondylitis, ulcerative colitis, retinal vasculitis, chronic myeloid leukemia, panic disorder etc. The Tribunal held that the disability occurred in the respondent-military

personnel due to service conditions or were aggravated by the military service and rounded of the disability element to 50% or above for life or for a fixed term.

3. In Writ Petition No.1994 of 2024, the order passed by the Tribunal in Original Application No.166 of 2020 has been challenged. In the said case, which was taken up as the lead case, the Tribunal held that the Diabetes Mellitus at the rate of 20% for life was aggravated by the military service and allowed the claim for disability pension to Lt. Colonel S. K. Rathore who was in low medical category when he was prematurely retired from service on 1st July 2003. He was released from military service on 1st July 2003 on the basis of the Medical Board proceedings dated 3rd April 2003. He served in Army for more than 23 years and during this period he was posted at Imphal, Tuting in Manipur, Ladakh and participated in operation Rakshak and operation Parakram. There is no dispute that he was not suffering from any disability before joining the Armed Forces. It is recorded in the Medical Board proceedings that his health was affected due to continued difficult service conditions as an Infantry Officer. He was on special duty during operation Parakram from 19th December 2001 to 30th November 2002. The medical report records that the disability detected in him on 1st July 2002 was aggravated by his continued service conditions as Infantry Officer and his deployment in operation Parakram. The claim of disability pension was not decided during his lifetime, he was diagnosed with Pancreatic Cancer and died on 1st November 2014. Notwithstanding these indisputed facts, the Invaliding Military Board rendered its opinion that the Diabetes Mellitus was a constitutional disorder and it was not connected with the military service and he was denied disability pension. His medical records and the Medical Board proceedings which are produced along with

the writ petition reveal the aforementioned facts as under: -

IC-38914N LT COL BK RATHORE HO 11 1N

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In lieu of AFMSF-16 (Ver 2002)

MEDICAL BOARD PROCEEDINGS
INVALIDMENT/RELEASE IN LOW MEDICAL CATEGORY
SOLELY/NOT SOLELY ON MEDICAL GROUNDS

Authority for Board: Army HQ letter No.33001/8830/97/MS PR dated 03 Apr 2003		*Place: MH, Ahmedabad*	*Date: June 2003*	*Date of Release 01 Jul 2003*
Name: Suresh Kumar Rathore		*Service No.: IC-38914N*	*Rank: Lt Col*	*Date of Birth 18 Sep 1957*
Unit/Ship: *HQ 11 Inf Div*	*Service (Army/ Navy/Air Force): ARMY*	*Arm/Corps/ Branch/Trade BIHAR REGT*	*Total Service 23 Years and 24 Days*	*Total Flying Hours/Service afloat: -*
Permanent Address: *B-41 Shantam Towers* *B/H Civil Hospital* *Shahibaug,* *Ahmedadbad – 380004* *(GUJARAT)*	*Identification Marks:* *(a) Small black mole on inside of right elbow.* *(b) Two Scar marks on chin.*			
Disability: (a) DIABETES MELLITUS, 250, V-67 (b) PRIMARY HYPERTENSION, 401, V-67				

PART I
PERSONAL STATEMENT

1. *Give details of service (P=Peac OR F=Field/Operational/Sea service)*

Ser No.	*From*	*To*	*Place/Ship*	*P/F*	*Ser No*	*From*	*To*	*Place/ Ship*	*P/F*
(i)	*15 Jul 80*	*07 Oct 81*	*Dehradun*	*P*	*(ii)*	*08 Oct 81*	*20 Jan 84*	*Imphal (Manipur)*	*F*
(iii)	*21 Jan 84*	*07 Jun*	*Gandhinagar*	*P*	*(iv)*	*08 Jun*	*06 Dec 89*	*Tuting/ Imphal*	*F*

		87				87			
(v)	07 Dec 89	17 Jan 92	Udaipur	P	(vi)	18 Jan 92	25 Sep 94	Ladakh	F
(vii)	26 Sep 94	25 Sep 96	Study leave (Baroda)	P	(viii)	26 Sep 96	26 Nov 96	(Op Rakshak) HAA (Valley)	F
(ix)	27 Nov 96	14 Dec 97	Lucknow	P	(x)	15 Dec 97	23 Dec 200	Bhopal	P
(xi)	24 Dec 2000	18 Dec 01	Ahmedabad	P	(xi)	19 Dec 01	30 Nov 02	(Op Parakram) Barmer Sector	F
(xii)	01 Dec 02	Till dt.	Ahmedabad	P					

2. Give particulars of any previous service in Army/Navy/Air Force and state whether you received a disability pension in respect of such service? - Nil

3. Give particulars of any diseases, wounds or injuries from which you are suffering -
(a) DIABETES MELLITUS (b) PRIMARY HYPERTENSION.

Illness, Would, Injury	First Started		Where treated	Approximate dates and periods treated
	Date	Place		
(a) DIABETES	01 Jul 1993	Leh (Ladakh Scouts)	153 GH, C/O 56 APO	Adimitted In MH 153 GH on 01 Jul 93 to 20 Jul 93.
(b) PRIMARY HYPERTENSION	24 Jun 2002	24 Jun 2002	OP PARAKRAM (Barmer Sector)	Admitted in MH Ahmedabad on 24 Jun 2002 and treatment given till 02 Jul 2002

4. Did you suffer from any disability mentioned in question no.3 or anything like it before joining the Armed Forces? If so, give details and dates – No.

5. Give details of any incidents duting your service which you think caused

or made your disability worse. Continued difficult service conditions as an infantry officer could have adversely affected my health.
6. In case of wound or injury, state how they happened and whether or not *(a) Medical Board or Court of Inquiry was held* *(b) Injury Report was submitted.*
7. Any other information you wish to give about your health – Nil
I certify that I have answered as fully as possible all the questions about my service and personal history and that the information given is true to the best of my knowledge. *Signature of Witness Sd/- Signature* *Sd/-* *Service No.IC-37482X Rank Lt Col Gurjeet Shah Date - 31-05-03*

Note: The questions should be answered in the indivisuals own words. This statement and the date given above will be checked from official records as far as possible by the parent Unit/Ship of the individual.

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IC-38914N LT COL BK RATHORE HO 11 1N

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PART II

MEDICAL EXAMINATION

1	*(a) Total Nos of Teeth : 29*	*Missing/Unsaveable Teeth*	
	(b) Total Nos Defective teeth Nil	*U R 8 7 6 5 4 3 2 1*	*1 2 3 4 5 7 U L*
	(c) Total Nos Dental Points 18/22	*L R 8 7 6 5 4 3 2 1*	*1 2 3 4 5 6 7 l L*
	(d) Condition of Gums Healthy Dentaly fit	*Missing teeth to be indicated by Horizontal line (-) and Unsaveable teeth by a cross (x) through the appropriate number*	
2	*Investigations*		
3	*(a) Physical Capacity* *(i) Height 175 cm (ii) Weight actual 63 Kg (iii) Ideal Wt 70 Kg. (iv) Over Wt _% (v) Waist 80 cm (vi) Chest full Expansion 90 cm. (vii) Range of Expansion 5 cm*		
	(b) Skin NAD/		
	(c) Cardio Vascular system *(I) Pulse 72 m. (ii) BP 12492 mm/Hg (iii) Peripheral Pulsation NAD/ (M) (ii) Heat Size NAD/ (v) Sound NAD/ (M) (vi) Rhythm NAD/ Regular*		

	(d) Respiratory System NAD/						
	(e) Gastro Intestinal System *(i) Liver Palapable (/N) __ cm (ii) Spleen Palpable (/N) __ cm*						
	(f) Central Nervous System *(i) Higher Mental Function NAD/ ___ (ii) Speech NAD/ __ (iii) Reflexes NAD/ __* *(iv) Tremors √Nil/Fine/Coarse (ii) Self Balancing Test Fairly Steady/Unsteady*						
4	*(a) Locomotor System NAD/ (b) Spine NAD/*						
	(c) Hemia NAD/ (d) Hydrocela NAD/						
	(e) Haemorrhoids NAD/ (f) Breast NAD/						
5	*(a) Distant Vision*	*R*	*L*	*(b) Near Vision*	*R*	*L*	*(c) CP*
	Without Glasses	*6/12*	*6/12*	*Without Glasses*	*N-5*	*N-5*	*II*
	With Glasses	*6/6*	*6/6*	*With Glasses*	*__*	*__*	
6	*(a) Hearing*	*R*	*L*	*Both*	*(e) Audiometry Record*		
	FW	*600 Cms*	*600 Cms*	*600 Cms*			
	CV	*Cm*	*Cms*	*Cms*			
	(b) Tympanic Membrane Intact	*Y/*	*Y/*				
	(c) Mobility (Valsalva)	*Mobile*	*Mobile*				
	(d) Nose, Throat & Sinuses NAD/						
7	*Gynaecological Exam*			*NA*			
	(a) Menstrual History				*(b) LMP*		
	(c) Nos of pregnancies				*(d) Nos of Abortions*		
	(e) No of children				*(f) Date of last confinement*		
	(g) Vaginal Discharge NAD/				*(h) Prolapse NAD/*		
	(i) USG Abdomen NAD/						
	Remarks : To be released in Med Cat S1 HA1 P2(p)						

	Sd/- *Rajesh Kumar* *Signature of MO*
	Date: 30.05.2003 Seal HO 11 INF DIV

Note : 1. Delete what is not applicable. In case any abnormality is detected, delete "NAD" and enter findings.

2. This part is to be completed by AMA in case of Release in low medical category and by ward MO in case of invalidments.

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IC-38914N LT COL SK RATHORE : HQ 11 INF DIV

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PART III

STATEMENT OF CASE

1. Date the individual joined your Unit/ Ship 24 Dec 2000
2. Was he in Low Medical Category (Y) If 'Yes' *(a) What was/ were the disability/ disabilities? (a) DIABETES MELLITUS* *(b) PRIMARY HYPERTENSION* *(b) What was his medical category and since when?* *S1H1A1P2E1 since 01 Jul 93* *(Diabetes Mellitus)* *S1H1A1P2E1 since 01 Jul 2002* *(Primary Hypertension)* *(Last categorization Medical Board) Re-cat Medical Board was held on 30 Dec 2002 at MH Ahmedabad.* *(c) How long has he been in lower medical category? Since* *(a) 01 Jul 1993 (First Medical Board)* *(b) 01 Jul 2002 (Detected and placed in LMC)* *(Primary Hypertension)*
4. Was he excused any duty? - All military duties as per his appointment were performed by the officer.
5. Nature of duties in the unit (Give details)- Est Offr, HQ 11 Inf Div (Adm duties in peace, in exercises and during OP PARAKRAM were performed by the officer).
6. Did the duties involve severe/ exceptional stress and strain? (Give details) *(a) Since when - No* *(b) On special day/ occasions - Yes (During OP PARAKRAM)*
7. Was he living with his family? If so – Family was staying in present stn i.e. Ahmedabad Cantt *(a) Since when since 03 Jan 2001* *1. Offr was deployed in OP*

PARAKRAM from 19 Dec 2001 till 30 Nov 2002. *2. On de-induction, offr was staying with family since 01 Dec 2002.* *(b) Govt. Accommodation or under own arrangements-Govt Accn.*
8. Was he living in unit lines? - NA
9. Dates of last leave and where spent, (Village/Town/State) – 04 Aug 2002 to 01 Sep 2002 C/o 616/3 Camp Ahmedabad Cantt – 03.
10. If disability is due to infection *(a) Any other case in the unit* *(b) Is the disease endemic in the town in surrounding areas? NA* *(c) Preventive measures taken?*
11. In case of Sexually Transmitted Diseases – NA *(a) When and where was it contacted.* *(b) Name of Hospital/STD center where treated.* *(c) Was surveillance and follow-up treatment completed? (If so give date of FTC)* *(d) if surveillance and follow-up treatment was not completed, state service factors responsible.* *12. Do you consider the disability/death is attributable to service? (Give reasons) Yes, Officer developed primary hypertension during long and continuous deployment in OP PARAKRAM.*
13. Do you consider the disability aggravated by service? (Give reasons). Yes, continued service conditions being an Infantry officer and deployment in OP PARAKRAM for one year.
Note. Injury Report (for injury cases)/ 14 days Charter of Duties (for HHD cases)/ any other relevant document to be attached by the Commanding Officer and endorsement made in this column.
Unit/Ship : HQ 11 Inf Div *(VS Rajput)* *Station : C/O 56 APO* *Col* *Date : 3/May 2003* *OC Tps*
Note. Injury Report (for injury cases)/14 days Charter of Duties (for HHD cases)/any other relevant document to be attached by the Commanding Officer and endorsement made in this column.

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IC-38914N LT COL SK RATHORE : HQ 11 INF DIV

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PART IV

STATEMENT OF CASE

1. Chronological list of the disabilities

Disabilities	*Date of Origin*	*Place and unit where*

		serving at the time
(a) DIABETES MELLITUS	*01 Jul 1993*	*Leh (Ladakh Scouts), hq 3 Inf Div*
(b) PRIMARY HYPERTENSION	*01 Jul 2002*	*OP Parakram (Barmer Sector), HQ 11 Inf Div*

2. Clinical details. Attach clinical summary here giving the salient facts of-Attached.

(a) Personal and relevant family history.
(b) Specialist report.
(c) Treatment.
(d) Present condition in detail.

Note. Insert the clinical summary sheet between page 1 and 5 without any folds. No part of the attachment should protrude out of the form.

PART V

OPINION OF THE MEDICAL BOARD

(Not to be communicated to the Individual)

1. Casual Relationship of the Disability with Service condition or 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*
(a) DIABETES MELLITUS	*N*	*N*	*Y*	*Constitutional disorder not connected with mil service*
(b) PRIMARY HYPERTENSION	*N*	*Y*	*N*	*Yes due to stress and strain of mil service*
(c)				
(d)	*Member-II*	*Member-I*	*Presiding Officer*	
(e)				
Note. Disability "Not connected with service" would be neither Attributable nor Aggravated by service.				

4. The learned counsel for the Union of India contended that the opinion of the Medical Board is a report by the trained medical experts and the same cannot be reviewed by the Tribunal. The

respondent-military personnel were subjected to medical evaluation at the time of their retirement and most of them were diagnosed with primary hypertension, diabetes, obesity etc. which are lifestyle diseases and were detected in the respondent-military personnel when most of them were posted at peace station. Mr.Amrendra Mishra, the learned counsel for the Union of India submitted that in disease cases the decision taken by the Service Headquarters in case of the Officers and OIC Records in case of PBOR as to attributability or aggravation of the disease based on the findings of the Invaliding Medical Board shall be final and for life, if the same was approved by the next higher medical authority. There is no presumption in law that every disease detected in the respondent-military personnel after his entry in the service was due to service conditions or aggravated on account of the service conditions. The decision in *"Dharamvir Singh"* is not applicable in case of the respondent-military personnel as most of whom were retired prematurely and not invalided out of service on the medical grounds. Similary, the primary contention raised by Mr. Kedar Dighe, the learned counsel for the petitioner-Union of India appearing in Navy matters was that the Tribunal cannot interfere with the opinion of the Release Medical Board. There was no casual connection, medical or logical, between the disease and the Naval Services at peace station. He contended that the Release Medical Board comprises of three professionals and examines the person to be released from service based upon the investigation conducted by the specialist doctor. It also scrutinizes the medical service records of the personnel/officer maintained during his service and the records of the previous Medical Boards. The decision of the Release Medical Board is further scrutinized by the appropriating authority. This is the submission made on behalf of the Union of India that the

judgment in *"Dharamvir Singh"*[1] cannot be applied in every case and each case has to be examined in its own facts and circumstances. There are substantial changes in the statutory regime under the the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008 (in short, Pension Entitlement Rules-2008) and there is no scope for any automatic presumption as to the disability incurred in the course of the military service as was the position in the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 1982 (in short, Pension Entitlement Rules-1982). The other learned counsels appearing for the Union of India adopted the aforesaid submissions and contended that the Tribunal committed a serious error in law while granting disability pension to the respondent-military personnel. On the other hand, the learned counsels for the respondents contended that a mere opinion of the Medical Board that the disability was not an outcome of the rigorous service conditions or not attributable to the military service is not a ground to deny the disability pension and the onus is on the employer to prove otherwise.

5. Before dealing with the grounds raised on behalf of the Union of India, we shall refer to the facts of a few more cases which were highlighted by the learned counsel for the Union of India.

Army Matters

(a) In Writ Petition No.4201 of 2025, Ex-Havildar Chandrakant Hausa Bapu Pote was detected Chronic Myeloid Leukemia ICD No.C92.1 and placed in temporary low medical category P3 (T-24) with effect from 8th December 2004 while serving at peace station. On subsequent review, he was placed in permanent low medial category P2 from 24th May 2005 and granted retention in service under sheltered

1. Dharamvir Singh v. Union of India & Ors.: (2013) 7 SCC 316

appointment. Primary Hypertension (I-10) and Panic Disorder (F41.0) were also detected sometime in November 2015 and March 2019 respectively and he was placed in low medical category S2 (Permanent) with effect from 1st December 2019. After serving 24 years and 2 days, he was released from military service in low medical category on fulfilling of the terms of engagement under Rule 13(3) Item III(i) of Army Rules, 1954. The Release Medical Board held on 1st January 2021 found that the Chronic Myeloid Leukemia ICD No.C92.1 was due to genetic mutation and not related to service conditions. The onset of Hypertension and Panic Disorder both for life developed while he was at the peace station and were not related to service conditions. The Release Medical Board observed that those diseases were neither attributable to nor aggravated by military service. It is stated that the composite percentage of disablement was assessed at 61% for life but the net assessment for qualifying disability pension was Nil for life.

(b) In Writ Petition No.2010 of 2024, Col. Gulab Yasin Tamboli was detected Type II Diabetes to the extent of 20% in August 1996 while posted at peace station. He superannuated from service on 31st May 2007 on completion of the terms of engagement. The Release Medical Board held on 23rd November 2006 rendered its opinion that the disease was neither attributable to nor aggravated by military service.

(c) In Writ Petition No.2012 of 2024, Col. Mukesh Trehan was detected Primary Hypertension and Obesity in July 1999 and Type II Diabetes in July 2005 when he was posted at peace station. He prematurely retired from service on

15th April 2007. The Release Medical Board observed that the Obesity and Metabolic Disorder were the primary cause and the diseases were neither attributable to nor aggravated by military service.

(d) Ex-Havildar K. Muniraj, who is the respondent in Writ Petition (Stamp) No.28336 of 2025 was detected Primary Hypertension with effect from 29th January 2020 and discharged from military service on 31st May 2022 on completing the terms of engagement. He developed disability while serving at peace station and the Release Medical Board observed that the disease was neither attributable to nor aggravated by military service.

(e) Major Rajgopalan, who is the respondent in Writ Petition No.17380 of 2024, was detected Cervical Spondylosis in October 1993 at peace station. He was prematurely retired in low medical category on 13th October 2003. The Release Medical Board held on 27th August 2003 gave its opinion that the disease was constitutional in nature.

Navy Matters

(f) In Writ Petition (Stamp) No.3899 of 2024, the respondent-Anand Baitule was enrolled in the Indian Navy Service on 4th February 2008 as Short Service Commission Officer. At the time of his entry in the service, he was found in Shape I. He was released from service on 4th February 2018 in low medical category. Before discharge from service, he was examined by the Release Medical Board and declared fit. The Release Medical Board held that the disability was neither attributable to nor aggravated by military service. He preferred an Appeal under the Casualty Pension Rules 2008 which was rejected on 27th March 2018. He preferred

Second Appeal which was said to be pending when he approached the Armed Forces Tribunal.

(g) In Writ Petition No.2802 of 2024, Janardan Singh was found in Shape I at the time of his entry in the Indian Navy Service as Boys Entry Sailor on 15th May 1971. He suffered heart-attack on 8th March 2004 and was discharged from service on 31st May 2006 on expiry of the terms of engagement. He was detected Coronary Heart Disease – Inferior Valve Myocardiac Infraction (DVD-RCA-LAD-NON-OBSTRUCTIVE) and was given sheltered appointment in peace station. He filed First Appeal which was dismissed on 15th September 2009. The Second Appeal filed by him was also rejected by an order dated 12th August 2010 and he approached the Tribunal in Original Application No.243 of 2021 after a period of 10 years and 10 months.

(h) Anan Jaiswal, who is the respondent in Writ Petition No.2810 of 2024 was a Surgeon Lieutenant enrolled in the Indian Navy Service on 28th July 2009. He resigned from service on 15th May 2012 for personal reasons. At the time of his entry in the service, he was found in Shape I and was posted at the peace station. The Release Medical Board detected Monomelic Amyotrophy which was assessed at the rate of 20% and the percentage qualified for disability pension was at the rate of 20% for life.

(i) Sabha Jeet Singh, who is the respondent in Writ Petition No.2468 of 2024, was enrolled as Matric Entry Rating in the Indian Navy Service on 3rd January 1989 and was in Shape I. While posted at INS Satavahana Naval base, he fell down while cutting branches of trees and sustained injury but refused to undergo surgery, as advised by the

Specialist Medical Officer. He was diagnosed with Primary Hypertension in March 2016 and superannuated from service on 31st January 2017. The Release Medical Board detected Primary Hypertension at the rate of 30% for life, compression and facture LV3 with CAL SAC and nerve root compression ICD was assessed at the rate of 20% for life. The opinion of the Release Medical Board was that he had disability at the rate of 20% for life attributable to military service and the composite disability was 40% for life but his disability qualifying for disability pension was reduced in view of his unwillingness for surgery and thus revised disability percentage came down to 14%.

(j) In Writ Petition No.4362 of 2024, the respondent-K.V. Santosh was in Shape I when he was inducted in Indian Navy Service as sailor on 30th July 1996. He was discharged from service on 30th July 2011 in low medical category [CNS (INV) seizures]. He was discharged from service on expiry of the terms of engagement. He was posted at INS Abhimanyu which is a training establishment for Navy Special Forces. He was always posted for administrative duties and not as an instructor or a trainee. The Release Medical Board detected disability of 20% for lifelong which was neither attributable to nor aggravated by military service.

6. Mr.Amrendra Mishra, the learned counsel for the Union of India contended that it is a condition precedent under the Pension Entitlement Rules-2008 for the grant of disability pension that the disability was caused by service factor. The medical test at the time of entry in the service is not exhaustive and it may not detect some

dormant disease which may be hereditary, constitutional or congenital in nature and may appear later in life. Therefore, the mere manifestation of a disease during the military service shall not *per se* establish the attributability or aggravation by service. This is necessary for grant of disability pension that there is casual connection between the disability or death and military service and onset of the disease. According to the Union of India, Rule 11 of the Pension Entitlement Rules-2008 contemplates that the aggravation of a disease is only in the case where the personnel or the officer was posted in extreme climatic conditions.

7. Notwithstanding the objections raised on the ground of delay and laches, voluntary retirement taken by the respondent-military personnel, inapplicability of the Pension Entitlement Rules–2008 etc., a pertinent question of law which arises in this batch of writ petitions is whether the opinion of the Medical Board that the constitutional disorder in the respondent-military personnel is not connected with or attributable to or aggravated by the military service is a sacrosanct report to decline disability pension and the Tribunal has no jurisdiction at all to interfere with such a finding of the Medical Board.

8. The relevant provisions under the Pension Entitlement Rules-2008 lay down the following conditions :-

> *" **4. Invalidment from Service:***
>
> *(a) Invalidation from service with disablement caused by service factors is a condition precedent for grant of disability pension. However, disability element will also be admissible to personnel who retire or are discharged on completion of terms of engagement in low medical category on account of disability attributable to or aggravated by military service, provided the disability is accepted as nor less than 20%.*
>
> *(b) An individual who is boarded out of service on medical grounds before completion of terms of engagement shall be treated as invalided from service.*

(c) PBOR and equivalcht ranks in other services who are placed permanently in a medical category other than SHAPE 1 or equivalent and are discharged bccause (i) no alternative employment suitable to their low medical category can be provided, or, (il) they are unwilling to accept altemative employment, or, (iti) they having been retained in alternative employment are discharged before the completion of their engagement, shall be deemed to have been invalided out of service.

5. Medical Test at entry stage:

The medical test at the time of entry is not exhaustive, but its scope is limited to broad physical examination.Therefore, it may not detect some dormant disease. Besides, certain hereditary constitutional and congenital diseases may manifest later in life, irtespective of service conditions. The mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service.

6.Causal connection:

For award of disability pension/special family pension, a causal connection between disability or death and military service has to be established by appropriate authorities.

7. Onus of proof:

Ordinarily the claimant will not be called upon to prove the condition of entitlement. However,where claim preferred after 15 years of discharge/retirement/invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.

8. Post discharge claims:

(a) Cases in which a disease was not present at the time of the member's retirement/discharge from service but arose within 7 years thereafter, may be recognized as attributable to service if it can be established by the competent medica) authority that the disability is a delayed manifestation of a pathological process set in motion by service conditions obtaining prior to discharge.

(b) In cases where an individual in receipt of a disability pension dies within a period of 7 years form the date of release/retirement, may be considered to have died of she disease for which he was granted disability pension if it can be so established by the competent medical authority. If the medical certificate as to the cause of the death is not available, other factors and circumstantial evidence would be taken into account.

10. Attributability:

(a) Injuries:
In respect of accidents or injuries, the fallowing rules shall be observed:
(i) Injuries sustained when the individual is 'on duty", as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).
(ii) In cases of self-inflicted injuries while 'on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.
(b) Diseases:
(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-
(a) that the disease has arisen during the period of military service, and,
(b) that the disease has been caused by the conditions of employments in military service.
(ii) Diseases due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contracted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical course as determined by the competent medical authority.
(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture current scientific medical application.
(iv) When the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.

11. Aggravation:
A disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic conditions, environmental factors related to service conditions e.g, Fields, Operations, High Altitudes etc.

12. Competent Authorities:

(a) Attributability/Aggravation:

(i) Injury Cases:

Decision regarding attributability/aggravation in respect of injury cases in invalidment/retirement or discharge would be taken by the Service HQrs. in case of officers and OIC Records in case of PBOR, for the purpose of casualty pensionary awards.

(ii) Disease Cases:

The decision regarding attributability/aggravation in respect of disease cases shall be taken by the Service HQrs in case of officers and OIC Records in case of PBOR on the basis of the findings of the RMB/IMB as approved by the next higher medical authority which would be treated as final and for life.

(b) Assessment:

(i) The assessment with regard to percentage of disability in both injury and disease cases as recommended by the Invaliding/Release Medical Board as approved by the next higher medical authority shall be treated as final and for life unless the individual himself requests for a review, except in the cases of disability/disabilities which are not of a permanent nature.

(ii) Where disablement is due to more than one disability, a composite assessment of the degree of disablement shall be made by reference to the combined effect of all such disabilities in addition to separate assessment for each disability. In case of overlapping disabilities, the composite assessment may not be the sum of individual disabilities.

(c) Re-Assessment of Disability:

There shall be no periodical review by Resurvey Medical Boards for re-assessment of disabilities except for disabilities which are not of a permanent nature, for which there shall be only one reassessment of the percentage by a Reassessment Medical Board. The percentage of disability assessed/recommended by the Reassessment Medical Board shall be final and for life unless the individual himself asks for a review."

9. Mr. Kedar Dighe, the learned counsel for the Navy referred to the Navy (Pension) Regulations, 1964 which outline the conditions for eligibility under Regulation 100 for disability pension. Under Regulation 101, a disability pension may be granted to a person who is invalided from service on account of a disability which is attributable to or aggravated by the service and the disability is assessed at twenty percent or over. Explanation (2) says that the service rendered in aid of the civil power shall be treated to be service in the Indian Navy for the purpose of the Regulations. Regulation 105 contemplates the manifestation of disability after discharge from the service and provides that the officer after his discharge from

service may be granted disability pension in addition to his pension or gratuity provided he is found to be suffering from a disease within a period of seven years from the date of discharge and the disease is accepted as attributable to naval service. Regulation 105-B provides that a sailer may at the discretion of the competent authority be granted a disability element as if he has been discharged on account of that disability if he at the time of discharge was found to be suffering from a disability attributable to or aggravated by naval service. The regulations under the Navy (Pension) Regulations, 1964 provide as under: -

> *"**100. Eligibility.***
>
> *- Subject to the provisions hereinafter contained, the following persons shall be eligible for disability pension, namely:*
>
> *(i) sailors on continuous service terms*
>
> *(ii) boys and apprentices;*
>
> *(iii) reservists when called up for service or for training.*
>
> ***101. Conditions for the grant of disability pension.***
>
> *- Unless otherwise specifically provided, a disability pension may be granted to a person who is invalided from service on account of a disability which is attributable to or aggravated by service and is assessed at twenty per cent, or over.Explanation. (1) The question whether a disability is attributable to or aggravated by service shall be determined in accordance with the rules contained in Appendix V to these regulations.Explanation. (2) Service rendered in aid of the civil power shall be treated as service in the Indian Navy for the purpose of this regulation.*
>
> ***105-B. Disability at the time of discharge.***
>
> *(1) A sailor, who is discharged from service after he has completed the period of his engagement and is, at the time of discharge found to be suffering from a disability attributable to or aggravated by naval service may at the discretion of the competent authority be granted in addition to the service pension admissible, a disability element as if he has been discharged on account of that disability.*
>
> *(2)The disability element of pension will be assessed on the accepted degree of disablement at the time of retirement or discharge on the basis of the rank held on the date on which the wound or injury was sustained or in case of a disease on the date of the first removal from duty on account of*

that disease.

(3) The provisions in sub-regulations (1) and (2) shall also apply to sailors discharged from service on completion of the period of their engagement and who have earned only a service gratuity."

10. The Pension Entitlement Rules-2008 were brought into existence with effective from 1st January 2008 and regulated the cases of disablement or death of service personnel, who became non-effective on or after 1st January 2008. These Rules superseded the Pension Entitlement Rules-1982 (as amended from time to time). These Rules are to be read in conjunction with the Guide to Medical Officers (Military Pension) 2008. These Rules, however, shall not apply to the cases of disablement or death if it has happened during the period 3rd September 1939 to 31st March 1948 or during the period of emergency post-1948. This is the stand taken by the Union of India that the Pension Entitlement Rules-2008 have brought into existence a new regulatory regime which restricts the claim of disability pension in many aspects. However, in our opinion, that is not the correct interpretation of the provisions under the Pension Entitlement Rules-2008. These Rules seek to expand the scope of disability pension. The expression "Invalidation from Service" with disablement caused by service factors is a condition precedent for grant of disability pension. There is nothing new in Rule 4. The disability element is admissible to the personnel who retired or are discharged on completion of the terms of engagement "in low medical category" on account of disability attributable to or aggravated by the military service, to the extent of not less than 20%. It is further provided under Rule 4 that an individual who is boarded out of service on medical grounds before completion of the terms of engagement shall be treated as invalided from service. The scope of the Pension Entitlement Rules-2008 covers the personnel of PBOR and equivalent ranks in other services

who are placed permanently in a medical category other than Shape I or equivalent and are discharged because (i) no alternative employment suitable to their low medical category can be provided, or (ii) they are unwilling to accept alternative employment, or (iii) they having been retained in alternative employment are discharged before the completion of their engagement, shall be deemed to have been invalided out of service. Rule 5 which provides that the mere fact that a disease has manifested during military service shall not *per se* establish attributability or aggravation by military service, does not bring in any drastic change in pre-2008 regime. Similarly, a requirement that a casual connection between the disability or death and military service has to be established is not intended to deny the benefit of disability pension.

11. These Rules provide that the claimant shall not be ordinarily called upon to prove the condition of entitlement except where a claim is preferred after 15 years of discharge/retirement/ invalidment/release. The period of limitation of 15 years has been provided because there is a prescribed retention period for the service documents. Therefore, in absence thereof, the claimant shall be required to prove his entitlement for disability pension. Such a provision under Rule 7, in fact, is a manifestation of the intention that a delay in making a representation for disability pension shall not be a ground to reject the claim. The provisions under Rule 6 as to casual connection between the disability or death and military service and under Rule 5 that any manifestation of a disease during military services shall not *per se* establish attributability or aggravation by military service are substantially diluted under Rule 8 which provides that a disease which occurs within seven years after the retirement or discharge from service may be recognized as attributable to service if it is established by the competent medical

authority that the disability is a delayed manifestation of a pathological medical process set in motion by service conditions obtaining prior to discharge. It is further provided under Rule 8 that it may be considered, if established by the competent medical authority, that the death of a personnel which occurred within seven years of the date of his release or retirement from service was on account of the disease for which he was granted disability pension. The expression "aggravation" has been defined under Rule 11, which provides that a disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of a military service, such as, posting in the places of extreme climatic conditions, environmental factors related to service conditions, field-operations, high altitudes etc. The cause of disability or death resulting from a disease shall be regarded as attributable to service when it is established that the disease arose during service coupled with the conditions and circumstances of duty in military service which contributed to the onset of the disease.

12. Regulation 173 of the Pension Regulations for the Army, 1961 is also a relevant provision which has to be kept in mind for disability pension. It pertains to the primary conditions for the grant of disability pension and provides that a disability pension consisting of service element and disability element may be granted to an individual who is invalided out of service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. Similarly, a low medical category military personnel who retires on superannuation or on completion of tenure is granted disability pension under Regulation 37 of the Pension Regulations for the Army, 2008. Under the said Regulation, it is provided that an officer

who retires on attaining the prescribed age of retirement or on completion of tenure, if found suffering on retirement, from a disability which is either attributable to or aggravated by military service and so recorded by the Release Medical Board then such benefit may be granted to the officer in addition to the retiring pension if the degree of disability is accepted at 20% or more. The Regulation 37 of the Pension Regulations for the Army, 2008 provides as under: -

> *"DISABILITY ELEMENT IN ADDITION TO RETIRING PENSION TO OFFICER RETIRED ON ATTAINING THE PRESCRIBED AGE OF RETIREMENT*
>
> *37. (a) An Officer who retires on attaining the prescribed age of retirement or on completion of tenure, if found suffering on retirement, from a disability which is either attributable to or aggravated by military service and so recorded by Release Medical Board, maybe granted in addition to the retiring pension admissible, a disability element from the date of retirement if the degree of disability is accepted at 20% or more.*
>
> *(b) The disability element for 100% disability shall be at the rate laid down in Regulation 94 (b) below. For disabilities less than 100% but not less than 20%, the above rates shall be proportionately reduced. Provisions contained in Regulation 94(c) shall not be applicable for computing disability element."*

13. Besides the afore-mentioned statutory provisions, the general principles as to entitlement of the disability pension under the Guide to Medical Officers (Military Pension) 2002 provides that the Medical Board should examine cases in the light of the etiology of the particular disease and record their conclusions with reasons in support thereof after considering all the relevant particulars of the case. For example, the manner in which hypertension in a personnel/officer has to be assessed is provided under the caption "assessment of degree of disablement on invalidment and release". It is provided thereunder that the first consideration should be to determine whether the hypertension is primary (essential) or secondary. In cases where the hypertension is found to be

secondary in nature, the entitlement considerations should be directed to the underlying disease process.

> *"43 .* ***Hypertension***
>
> *The first consideration should be to determine whether the hypertension is primary (essential) or secondary. If secondary, entitlement considerations should be directed to the underlying disease process (e.g. Nephritis), and it is unnecessary to notify hypertension separately. It is better to clearly indicate whether it is a case of essential hypertension, giving the evidence in support.*
>
> *As in the case artherosclerosis, entitlement of attributability is is never appropriate, but where disablement for essential hypertension appears to have arisen or become worse in service, the question whether service compulsions have caused aggravation must be considered. Each case should be judged on its merits taking into account particularly the physical condition on entry into service, the age, the amount and duration of any stress and whether any other service compulsion has operated.*
>
> *Hypertension generally arising in close time relationship to service in field area, active operational area, war like situation both in peace and field area counter-insurgency areas and high altitude areas are acceptable as aggravated when exceptional stress and strain of service is in evidence. However, in certain cases the disease has been reported after long and frequent spells of service in field/HAA/active operational area. Such cases can be explained by variable response exhibited by different individuals to stressful situations. Aggravation can be considered taking into account the duration of service in active operational areas and sector profile."*

14. We are of the opinion that the service records of the military personnel shall have substantial evidentiary value and must be accepted unless any different conclusion has been reached due to any inaccuracy of the records. The Invaliding Medical Board examines the individual officer or ex-serviceman and his entire medical history and records its assessment with regard to the extent of disability and the attributability to or aggravation by the military service. This is an admitted position that the assessment made by the Medical Board is only recommendatory in nature and this assessment is subject to a review by the competent medical

authorities. In *"Ramavtar"*[2], the Hon'ble Supreme Court held that the officer who retired on attaining the age of superannuation or on completion of his tenure of engagement is entitled to the benefit of rounding up of disability pension, if he was found suffering from disease which is attributable to or aggravated by the military service. The decision of the Invaliding Medical Board must be based on the consideration of other circumstances such as service conditions, pre and post-service history, corroboration of the statement and the value of evidence. In "*Rajbir Singh*[3]", the Hon'ble Supreme Court takes a note of the decision in *"Dharamvir Singh"* and held that the legal position enunciated in *"Dharamvir Singh"* is in tune with the Pension Regulations, Entitlement Rules and the Guidelines issued to the Medical Officers. The Hon'ble Supreme Court further observed that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability, at times, even before they completed their tenure in the Armed Forces. The decision in *"Narsingh Yadav"*[4] is clearly distinguishable on facts, inasmuch as, Schizophrenia was not detected at the time of the enrollment of the officer and the same cannot be said to be arisen or aggravated due to military service. There may be cases in which the disease was wholly unrelated to military service but it needs to be affirmatively proved that the disease has nothing to do with the military service if the disability pension is sought to be denied.

15. In *"Dharamvir Singh"*, the Hon'ble Supreme Court observed that a member of the military service is presumed to possess a sound physical and mental condition upon entering the service,

2. Union of India v. Ramavtar & Ors." : 2014 SCC OnLine SC 1761.
3. Union of India v. Rajbir Singh : (2015) 12 SCC 264.
4. Narsingh Yadav v. Union of India : (2019) 9 SCC 667.

provided there is no note or record at the time of his entry in the service. In the event of the discharge of a military personnel from the service on medical grounds it has to be presumed that any deterioration in health was due to service. The onus of proof is not on the officer and he is entitled to derive benefit of any reasonable doubt. The provisions for pensionary benefits need to be construed more liberally and the onus to prove that the officer is not entitled for disability pension is on the employer. It is mandatory for the Medical Board to follow the guidelines and record a reason why the disease could not have been detected on medical examination prior to the entry of the military personnel in service and, that, the disease had not arisen during his service tenure. In "*Sukhvinder Singh*"[5], the Hon'ble Supreme Court observed that a benefit of doubt must be extended in favor of the member of the military service. In "*Bijender Singh*"[6], the Hon'ble Supreme Court takes a note of the decisions in "*Dharamvir Singh*" and "*Rajbir Singh*" and held that the law has by now crystallized 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.

16. In our opinion, this is not correct to say that the Tribunal cannot interfere with the findings of the Invalidating Medical Board. In "*Rajumon T.M.*"[7], the Hon'ble Supreme Court held that the action of the military authority shall be unsustainable in the law if not supported by the reasons for the opinion for discharge of a serviceman or to deny him the disability pension. The Hon'ble Supreme Court held that the onus of proving the disability and

5. Sukhvinder Singh v. Union of India & Ors : (2014) 14 SCC 364.
6. Bijender Singh v. Union of India & Ors : 2025 SCC OnLine SC 895.
7. Rajumon T.M. v. Union of India & Ors. : 2025 SCC OnLine SC 1064.

grounds of denying disability pension would lie heavily on the authority where the serviceman has been invalided out of service by the authority. The Hon'ble Supreme Court further held that the requirement to give reasons by the Medical Board is crucial, critical, decisive and necessary for the purpose of granting or denying disability pension and it is not a mere formality but a necessary material on the basis of which the Pension Sanctioning Authority has to decide about the grant or refusal of disability pension. The Hon'ble Supreme Court further observed that it is of a paramount importance that the Medical Board records clear and cogent reasons in support of their medical opinions because such reasoning would enhance the transparency and also assist the competent Authority in adjudicating the matters with greater precision and ensuring that no prejudice is caused to either party. In paragraph nos. 20 to 25 of the reported decision, the Hon'ble Supreme Court held as under: -

> ***20.*** *In our opinion, the requirement to give reasons by the Medical Board is crucial, critical, decisive and necessary for the purpose of granting or denying disability pension and it is not a mere formality, but a necessary material on the basis of which the pension sanctioning authority has to decide about the grant or refusal of disability pension.*
>
> ***21.*** *As noticed above, it has been specifically provided under Clause (d) of Regulation 423 as quoted that the question as to whether the disability is attributable to or aggravated by service or not, will be decided as regards its medical aspects by the Medical Board and the Medical Board will specify reasons for their opinion and the question whether the cause and attendant circumstances can be attributed to service will be decided by the pension sanctioning authority.*
>
> ***22.*** *Thus, this requirement to give reasons by the Medical Board about their opinion is in our view absolutely necessary as also required under Regulation 423(d) for the reason that the fate of the future career of the serviceman is going to be decided by the opinion of the Medical Board, which is to be treated as final as regards the cause of disability and the circumstances in which the disability originated. The continuation of the service of the concerned serviceman and as to whether he will be entitled to disability pension is dependent on the opinion of the Medical Board which is also to be treated as the final one.*

> ***23.*** *Hence, the rules mandate giving of reasons by the Medical Board while rendering its opinion. The reasons given by the Medical Board would obviously be the basis for determination by the competent authority whether the serviceman would be discharged from service and whether he would get disability pension.*
>
> ***24.*** *Accordingly, in our opinion, if the serviceman is discharged from service or denied the disability pension on the basis of a medical opinion which is devoid of reasons, it would strike at the root of the action taken by the authority and such action cannot be sustained in law.*
>
> ***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."*

17. Pension is not a bounty payable on sweet-will and pleasure of the government. The right to pension is a valuable right vested in a government servant"[8]. In "*D. S. Nakara*"[9], the Hon'ble Supreme Court observed that a pension scheme must provide that the pensioners would be able to live free from want, with decency, independence and self-respect and at a standard equivalent to pre-retirement level. In paragraph no. 28 of the reported judgment, the Hon'ble Supreme Court observed that pensions to civil employees of the government and the defence personnel as administered in India are compensation for the services rendered by them in the past. The Hon'ble Supreme Court further observed that pension is not only compensation for loyal services rendered in the past but it has a broader significance and it is a measure of socio-economic justice which inheres economic security in the fall of life when physical and mental prowess is ebbing corresponding to the aging process. The disability pension provided to the military personnel has a similar object. The military personnel who is unable to perform his duty and invalided out from service on medical ground deserves grant of

8. Deokinandan Prasad v. State of Bihar & Ors.: (1971) 2 SCC 330.
9. D. S. Nakara & Ors. v. Union of India : (1983) 1 SCC 305.

pension. We do not think that the rule makers intended to deprive the military personnel of the benefit of the disability pension on the ground of delay or constitutional disorder or disease even if such invaliding diseases occurred while in military service. This is not correct to say that the onus to prove that the disability occurred on account of military service has shifted to the military personnel. For example, it would be absolutely impossible for a military personnel to prove that he suffers from hypertension on account of rigours of the duty in military service. Just to indicate, hypertension is a notified disease which is recognized by the Army and Navy a disease which entitles the military personnel to seek disability pension.

18. This was a duty of the Tribunal to interpret the beneficial provisions under the Rules in a liberal manner and not to restrict the benefits flowing thereunder to the military personnel who suffered invalidation in course of their service. Except some cosmetic changes, there is no change in the statutory regime under the Pension Entitlement Rules-2008 or the Navy Regulations for grant of disability pension to the military personnel. The decision of the Tribunal is not liable to interference on showing some mistakes committed by it in the process of adjudication. The High Court in exercise of its jurisdiction under Article 226 of the Constitution of India may interfere with the decision of an inferior Tribunal where it is demonstrated that the Tribunal passed an order ignoring the material and relevant facts or considered such irrelevant materials which rendered its decision perverse. We do not find any such case made out by the Union of India in this batch of writ petitions.

19. In view of the aforesaid discussions, we do not find any merit in these writ petitions which are, accordingly, dismissed.

20. Interim order dated 15th February 2024 passed in Original Side Writ Petition No. 4362 of 2024 and other similar orders passed in connected matters shall stand vacated.

(GAUTAM A. ANKHAD, J.) (CHIEF JUSTICE)

PRAVIN DASHARATH PANDIT

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