2026:DHC:470-DB

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

% *Date of Decision : 19.01.2026*

\+ W.P.(C) 749/2026

UNION OF INDIA

.....Petitioner

Through: Ms. Archana Gaur CGSC, Ms. Riddhima Gaur, Mr. Deepu Kumar, Advocates.
Mr. Mritunjay, Mr. Padam, DAV Legal Cell, Air Force.

versus

627281 EX MWO (HFO) TEJPAL SINGH

.....Respondent

Through:

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

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

CM APPL. 3638/2026(exemption)

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

2. The application stands disposed of.

W.P.(C) 749/2026 & CM APPL. 3637/2026

3. This challenge in this petition is to an order dated 03.08.2023 passed by the Armed Forces Tribunal, Principal Bench, New Delhi (Tribunal) in OA No.2146/2019, whereby the Tribunal has allowed the OA filed by the

respondent herein by stating in paragraph 26 as under:

> *"26. Under the circumstances, the OA 2146/2019 is partially allowed and the applicant is to be held entitled to the grant of the disability element of pension qua the disability of 'Primary Hypertension' assessed @ 30% for life which is directed to be broad banded to 50% 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 from the Indian Army and the respondents are directed to issue the corrigendum PPO with direction 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 receipt of the copy of this order."*

4. The submission of the learned counsel for the petitioner is that the Tribunal could not have allowed the appeal as it is the case of the petitioner couched on the findings the Release Medical Board that the respondent has suffered disability in a peace area and for reasons neither attributable nor aggravated by military service.

5. In fact, it has been stated that the same is a result of an idiopathic/lifestyle related disorder. It is also her submission that the order of the Tribunal is *per incuriam* as it does not consider the case from the perspective of Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 wherein the general presumption while the principle of attributable to or aggravated by military service has been done away with. Suffice to state that in ***UOI & Ors. v. 1481129 P EX HAV Ram Kumar, 2026:DHC:197-DB***, this Court has in paragraphs 9,10 and 13 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, wherein at paragraphs 45.1, 46 and 47, the Supreme Court held as under:

> *"45.1. Thus, this Court held that essence of the Rules is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into the service if there is no note or record to the contrary made at the time of such entry. In the event of subsequent discharge from service on medical ground, any*

deterioration in health would be presumed to be due to military service. The burden would be on the employer to rebut the presumption that the disability suffered by the member was neither attributable to nor aggravated by military service. If the Medical Board is of the opinion that the disease suffered by the member could not have been detected at the time of entry into service, the Medical Board has to give reasons for saying so. This Court highlighted that the provision for payment of disability pension is a beneficial one which ought to be interpreted liberally. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that upon proper physical and other tests, the member was found fit to serve in the army would give rise to a presumption that he was disease free at the time of his entry into service. For the employer to say that such a disease was neither attributable to nor aggravated by military service, the least that is required to be done is to furnish reasons for taking such a view.

46. Referring back to the impugned order dated 26.02.2016, we find that the Tribunal simply went by the remarks of the Invaliding Medical Board and Re-Survey Medical Boards to hold that since the disability of the appellant was less than 20%, he would not be entitled to the disability element of the disability pension. Tribunal did not examine the issue as to whether the disability was attributable to or aggravated by military service. In the instant case neither has it been mentioned by the Invaliding Medical Board nor by the Re-Survey Medical Boards that the disease for which the appellant was invalided out of service could not be detected at the time of entry into military service. As a matter of fact, the Invaliding Medical Board was quite categorical that no disability of the appellant existed

before entering service. As would be evident from the aforesaid decisions of this Court, the law has by now crystalized that if there is no note or report of the Medical Board at the time of entry into service that the member suffered from any particular disease, the presumption would be that the member got afflicted by the said disease because of military service. Therefore the burden of proving that the disease is not attributable to or aggravated by military service rest entirely on the employer. Further, any disease or disability for which a member of the armed forces is invalided out of service would have to be assumed to be above 20% and attract grant of 50% disability pension.

47. Thus having regard to the discussions made above, we are of the considered view that the impugned orders of the Tribunal are wholly unsustainable in law. That being the position, impugned orders dated 22.01.2018 and 26.02.2016 are hereby set aside. Consequently, respondents are directed to grant the disability element of disability pension to the appellant at the rate of 50% with effect from 01.01.1996 onwards for life. The arrears shall carry interest at the rate of 6% per annum till payment. The above directions shall be carried out by the respondents within three months from today."

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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.

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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."

6. Having noted the position of law and upon examining the facts of this case with that perspective, it is noted that the respondent was appointed in the Air Force on 28.10.1981. He was discharged from service on 31.03.2019 on completion of 37 years, 5 months and 4 days of service.

7. It is a conceded case that he did not suffer from any disability at the time of appointment in the Indian Air Force. The opinion of the Medical Board as noted by the Tribunal can be seen from paragraph 3 of the impugned order, which we reproduce as under:-

"3. The Release Medical Board not solely on medical grounds was held at 25 Wing, AF vide AFMSF -16 dated 11.03.2018 and found him fit to released from service in low medical category A4G3(P) for disabilities i.e. Primary Hypertension assessed @30% for life and CAD Silent ASMI Normal LV Function assessed @30% for life and the composite assessment of both these disabilities was assessed @50% for life. The opinion of the Release Medical Board is as under:

PART V

OPINION OF THE MEDICAL BOARD

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)	Reasons/cause specific condition and period in service
Primary Hypertension(old)ICD:110.0	NO	NO	Yes	The disability is neither attributable nor aggravate by service as the
Z09 0				disability is an idiopathic/life style related disorder and detected while serving in peace area, as per Para 43 of Chapter-VI of GMO-2008(Mil pension)
CAD Silent ASMI-Normal LV Function(old) ICD:121.4. Z09.0	NO	NO	YES	The disability is neither attributable nor aggravated by service as per charter of duties dated 20 Mar 2013

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The queries No.3 & 4 and the responses thereto:

3. Did you suffer from any disability before joining armed forces? If so, give details and dates: NO
4.Give details of any incidents, during your service, which you think caused or made your disability worse: NIL

4. During the period of his tenure in the Air Force service, the applicant was posted in a field area w.e.f. 21 Dec.1982 to 09 March, 1986 at 403 AF Station, Kumbhigram. The onset of both the disabilities of the applicant occurred on 09 February 2013 whilst the applicant was posted at Jammu/Udhampur."

8. Suffice to state, while ascertaining the disability of Hypertension, the Release Medical Board has not given any reasons to support its conclusion that the disability of Primary Hypertension was not relatable to military service. It does not even give any reasons to relate the disability to lifestyle.

9. The position of law in this regard is clear, as there is an obligation on the part of the Medical Board to give reasons for coming to a conclusion,

therefore, the Medical Board must record the reasons, findings while discharging the onus placed upon it.

10. It must be noted that lifestyle varies from individual to individual. Hence, a mere statement that the disease of a lifestyle disorder cannot be a sufficient reason to deny the grant of Disability Pension unless the Medical Board has duly examined and recorded the particulars relevant to the individual concerned.

11. We are of the view that given the facts of this case, the conclusion drawn by the Tribunal cannot be faulted. The petition being without any merit is dismissed. The pending application is also dismissed as having become infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 19, 2026
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