

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP (C) No. 1156/2024

Date of pronouncement: 24.02.2026.

Date of uploading: 25.02.2026.

- 1. Union of India through Secretary
Ministry of Defence, South Block, New
Delhi.**
- 2. Chief of Army Staff, IHQ MoD (Army)
DHQ PO, South Block, New Delhi.**
- 3. Principal Controller of Defence Accounts
(Pensions), Draupadi Ghat, Allahabad,
Uttar Pradesh-211014.**
- 4. Officer Incharge, DSC Records PIN
901277 C/O 56 APO**

.....Applicant(s)/Petitioner(s)

Through :- Mr. Suneel Malhotra, CGSC

v/s

**Ex. Naik Gurbaksh Singh No. 13907648P
S/o Sh. Varyam Singh R/o Village Pakhri,
P.O. Ramgarh, District Samba 181141
J&K.**

.....Respondent(s)

Through :- Mr. Amit Singh, Advocate
Mr. B.S. Sarmal, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

ORDER(ORAL)

1. Impugned in this petition, filed by the Union of India and three others under Article 226 of the Constitution of India, is an order and judgment dated 20.01.2022 passed by the Armed Forces Tribunal, Regional Bench Srinagar at Jammu ["the Tribunal"] in OA No. 489/2019, whereby a direction has been issued to the petitioners to constitute Re-survey Medical Board for medical examination of the

respondent and process his case for pension on the basis of the opinion of such Board.

2. Briefly stated, the facts leading to the filing of this petition are that the respondent joined Army service on 13.12.1965 in a fit medical condition and was discharged from service on 31.12.1989 after rendering services of almost 24 years and 19 days. Thereafter he was enrolled in Defence Security Corps on 14.10.1990. During his service in the DSC, he suffered from 'Primary Hypertension' on 07.02.2002 and was downgraded to Low Medical category by the duly constituted Medical Board. On account of his disability, he was invalided out from service on 30.09.2002 and was not given further extension of two years on medical grounds.
3. The Release Medical Board assessed his disability at 30% for two years attributable to military service, i.e., due to stress and strain. The PCDA (P) Allahabad, however, did not agree with the medical opinion and rejected the claim of the respondent for disability element of pension after returning a finding of its own that the disability suffered by the respondent was neither attributable nor aggravated by military service.
4. Aggrieved, the respondent filed OA No. 400 of 2017 before the Tribunal which was disposed of vide order dated 06.09.2017 with a direction to the petitioners herein to process the case of the respondent for grant of disability pension in terms of policy dated 25.04.2011.
5. Since the Release Medical Board had already assessed his disability at 30% for two years and the same was found to be aggravated by

military service, as such, the petitioners granted him disability pension for a period of two years w.e.f. 01.10.2002 to 30.09.2004 vide PPO dated 20.09.2018. However, the Re-survey Medical Board was not held and, therefore, disability element of pension beyond 30.09.2004 was not granted. This made the respondent to approach the Tribunal yet again and this time by way of OA No. 489 of 2019 seeking *inter alia*, a direction to the petitioners herein to get the respondent examined by the Re-survey Medical Board for assessment of disability w.e.f. 01.10.2004. It seems that during the pendency of the OA, the Tribunal vide its interim order dated 29.01.2020 directed the petitioners herein to hold RSMB of the respondent within a period of two months.

6. It has been brought to our notice that, in compliance with the aforesaid interim order, the petitioners conducted the Re-survey Medical Board of the respondent on 29.06.2020 and assessed the disability of 'Primary Hypertension' suffered by the petitioner at 30% for life and found it aggravated by military service. However, this opinion of the Re-survey Medical Board was not brought to the notice of the Tribunal either by the petitioners herein or the respondent and, accordingly, the Tribunal disposed of the OA with a direction to the petitioners to conduct the Re-survey Medical Board of the respondent herein to decide as to whether the disability which the respondent suffered at the time of his release continues to exist. This is how the OA has been disposed of by the Tribunal in terms of the order impugned.

7. The impugned order has been challenged by the petitioners on the ground that the Tribunal has failed to appreciate that the respondent had not completed mandatory service of 15 years to claim service element of disability pension. Reliance has been placed on Rule 132 of the Pension Regulations for the Army, 1961 (Part I). It is submitted that in the instant case the respondent had only rendered 11 years 353 days qualifying service with the DSC and, thus, was not entitled to disability pension.
8. *Per contra*, learned counsel for the respondent would submit that he was not allowed to complete the requisite service and was denied extension on account of medical disability. He submits that had there been no disability suffered, the respondent would have continued up to the age of 57 years and earned both the elements of disability pension.
9. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal does not suffer from any illegality or infirmity calling for interference by us in these proceedings under Article 226 of the Constitution of India. However, having regard to the fact that during the pendency of the OA No. 489/2019 before the Tribunal, the petitioners have, in compliance with the interim order, conducted the Re-survey Medical Board of the respondent and found him suffering with the disability 'Primary Hypertension' at 30% for life, as such, there is hardly any need to issue a direction to the petitioners to conduct Re-survey Medical Board of the respondent afresh.

10. Indisputably, the respondent was invalidated out of DSC service on account of his disability and, therefore, could not have been denied the disability pension.
11. As a matter of fact, the disability pension for the initial two years was granted in favour of the respondents w.e.f. 01.10.2002 till 30.09.2004 vide PPO dated 20.09.2018. The future disability element of pension was not granted for the reason that he was not put before the Re-survey Medical Board after 30.09.2004. It is only because of the intervention made by the Tribunal, in terms of its order dated 06.09.2017 passed while disposing of OA No. 400/2017, the respondent was held entitled to disability pension w.e.f. 01.10.2002 to 30.09.2004.
12. Since in compliance with the interim order dated 29.01.2020 passed in OA No. 489/2019, the Re-survey Medical Board of the respondent was conducted and he has been found suffering from the same disability for life and there is no reason or justification to deny him the disability pension beyond 30.09.2004.
13. For all these reasons, we find no merit in this petition, however, we modify the judgment of the Tribunal to infuse in it the required clarity by providing as under:
 - i. The respondent shall be entitled to disability pension w.e.f. 01.10.2004, however, the arrears payable to the respondent on account of such pension shall be restricted to three years preceding the filing of the OA No. 400/2017.

- ii. The arrears shall be payable with interest @6% per annum from the date of passing of the impugned order of the Tribunal till the payment of the entire arrears.
- iii. The respondent shall also be entitled to the benefit of round off to 50% as against 30%.

14. With the aforesaid modifications, this petition is disposed of.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
24.02.2026
Manik

Whether this order is speaking: Yes/No

Whether this order is reportable: Yes/No

