

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case: WP(C) No. 2424/2025

1. **Union of India Th. its Secretary to Government of India,
Ministry of Defence, South Block, New Delhi-110011.**
2. **Additional Director General personnel Services,
Adjutant General's Branch, Integrated HQ of Ministry of
Defence (army), DHQ PO, New Delhi-110001.**
3. **Principal Controller of Defence Accounts (Pensions),
Draupadi Ghat, Allahabad, Uttar Pradesh-211014**
4. **Office-In-Charge, Dogra Regiment Records, PIN-900235,
C/O 56 APO.**

.....Petitioner/Appellant(s)

Through:- Mr. Vikas Sharma, Sr.Panel Counsel

V/s

**No.3999502F Ex-Naik Gulzari Lal
S/O Sh. Mangal Dass
R/O Village: Kotla, PO Addalehar
Tehsil Bishnah, District Jammu**

..... Respondent(s)

Through:- Mr. Amit Singh, Advocate

**CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

ORDER
18.05.2026

1. By way of the present writ petition filed under Article 226 of the Constitution of India, the petitioners-Union of India and its functionaries seek to challenge the order dated 12.11.2024 passed by the Armed Forces Tribunal, Regional Bench Srinagar

at Jammu (for short, "AFT") in OA No. 184/2023 titled *Ex-Naik Gulzari Lal v. Union of India and others*, whereby the Original Application filed by the respondent came to be allowed and the respondent was held entitled to grant of disability element with effect from the day following the date of his discharge.

2. The respondent–Gulzari Lal was enrolled in the Indian Army (Dogra Regiment) on 21.04.1999 and was discharged from service on 30.04.2021 after rendering 22 years and 10 days of qualifying service. At the time of discharge, the respondent was placed in low medical category on account of the disabilities namely "CAD-TVD-POST PCI TO RCA" and "DYSLIPIDEMIA". Prior to his discharge, the respondent was subjected to assessment by the Release Medical Board (RMB), which assessed the composite disability at 33.5% for life. However, the RMB opined that the aforesaid disabilities were neither attributable to nor aggravated by military service (NANA).

3. The first and second appeals preferred by the respondent against the opinion of the RMB were rejected vide communications dated 26.05.2022 and 10.10.2022 respectively, primarily on the grounds that the onset of CAD-TVD-POST PCI occurred in a peace area and that Dyslipidemia was attributable to self-negligence and changing lifestyle adopted by the individual. Consequently, the claim of the respondent for grant of disability element came to be rejected. Aggrieved thereof, the respondent approached the AFT by way of OA No. 184/2023.

4. The Tribunal, after considering the rival submissions advanced by learned counsel for the parties and examining the relevant statutory provisions, allowed the Original Application. The AFT held that in terms of Rule 10(b) of the Entitlement Rules for Casualty Pensionary Awards, 2008, where a disease has arisen during the period of military service and is attributable to the conditions of employment in military service, the same is liable to be treated as attributable to military service. The Tribunal further observed that any disease contracted during service is ordinarily to be presumed attributable to service unless it falls within the excepted category such as sexually transmitted diseases. The Tribunal also held that Rule 10(b) does not draw any distinction between service rendered in peace areas and field areas and, therefore, rejection of the claim solely on the ground that the disease manifested in a peace station was unsustainable in law.

5. The petitioners have assailed the impugned order, *inter alia*, on the ground that in terms of Para 53(a) of the Pension Regulations for the Army, 2008 (Part-I), an individual who is released, retired or discharged on completion of the prescribed terms of engagement, service limits or on attaining the prescribed age, and who is found by the Release Medical Board to be suffering from a disability attributable to or aggravated by military service, is entitled only to disability element in addition to service pension/service gratuity, provided the accepted degree

of disability is assessed at 20% or more. It is contended that since the disability of the respondent was assessed as neither attributable to nor aggravated by military service, he was not entitled to disability element.

6. We have heard learned counsel for the parties and perused the material available on record.

7. It is a settled principle of law that once a member of the Armed Forces is found medically fit at the time of enrolment, any disease or disability subsequently detected during the course of service is presumed to have arisen in service, unless the employer is able to rebut the said presumption by producing cogent and reliable medical evidence to establish that the disease was constitutional, hereditary or otherwise unconnected with military service.

8. The controversy involved in the instant petition is no longer res integra. The Hon'ble Supreme Court in **Dharamvir Singh v. Union of India**, (2013) 7 SCC 316, held that where a member of the Armed Forces is found medically fit at the time of enrolment and subsequently develops a disease during service, a presumption arises that the disease is attributable to or aggravated by military service unless the employer is able to rebut the said presumption by cogent and reliable evidence. The Hon'ble Supreme Court further held that the opinion of the Medical Board must be supported by adequate reasons and cannot be accepted mechanically.

9. Further, in ***Union of India v. Ram Avtar***, (2014) 14 SCC 690, the Hon'ble Supreme Court held that the benefit of rounding off of disability element is also available to personnel who have been invalided out or retired with disability attributable to or aggravated by military service.

10. Admittedly, the respondent was enrolled in the Army after having been found medically fit and the disabilities in question manifested during the course of military service. The respondent, therefore, is governed by the Pension Regulations for the Army, 2008 read with the Entitlement Rules for Casualty Pensionary Awards, 2008 and the Guide to Medical Officers (Military Pension), 2008 (GMO, 2008).

11. The issue raised in the instant petition has already been considered by a Division Bench of this Court in WP(C) No. 3173/2023 and connected matters titled (*Union of India & Ors vs. Nirman Singh Jamwal*) decided on 03.11.2025. In the connected matter, namely WP(C) No. 1242/2024, this Court observed as under:-

“The disease ‘Dyslipidemia’ is related to Ischaemic Heart Disease (IHD), which is dealt with in Para 47 of the GMO, 2008. In terms of Para 47 of the GMO, 2008, attributability will be conceded where myocardial infarction arises during service in close time relationship to service compulsions involving severe trauma or exceptional mental, emotional or physical stress. IHD arising while an individual is serving in Field Area/HAA/CI Ops Area or during operations is also to be considered attributable to military service. Rule 10(b)(i)(b) of the Entitlement Rules, 2008 further provides that where a disease has arisen during the period of military service or has been caused by conditions of employment in military service, attributability to military service shall ordinarily be conceded. Rule 11 further provides that aggravation shall be conceded where the onset or progression of the disease is hastened by

specific conditions of military service such as service in field areas, operational areas, high altitudes and extreme climatic conditions.”

12. Similarly, in WP(C) No. 2594/2024, the Division Bench of this Court observed as under:-

“The GMO, 2008, particularly Para 43, mandates that the Medical Authorities are required to specifically opine whether the disabilities suffered by the individual during service were worsened or aggravated by service conditions. The Medical Board is under an obligation to consider the entire service profile of the individual, including long spells of service in field/high altitude/active operational areas and the stress and strain associated therewith. The factors such as isolation from family, operational stress, climatic conditions and dietary compulsions of service are relevant considerations which may contribute towards aggravation of cardiovascular and related diseases.”

12. In the instant case, there is nothing on record to establish that the disabilities suffered by the respondent were constitutional, hereditary or pre-existing in nature. The respondent was admittedly physically and medically fit at the time of enrolment and continued in service for more than two decades before the onset of the disease. The opinion rendered by the Release Medical Board declaring the disabilities as NANA does not indicate due consideration of the parameters prescribed under the GMO, 2008, particularly with respect to stress and strain of military service and the conditions of employment.

13. The mere fact that the disease manifested in a peace area cannot, by itself, be made a ground to deny attributability or aggravation, especially when the Entitlement Rules, 2008 do not make any such distinction between peace postings and operational/field postings. Military service, by its very nature,

involves constant physical and psychological stress, separation from family, disciplined living conditions and service exigencies, all of which are relevant factors while considering claims relating to cardiovascular ailments and allied diseases.

14. In view of the aforesaid settled legal position, we are of the considered opinion that the AFT has rightly relied upon Rule 10(b) of the Entitlement Rules and correctly held that a disease which has arisen during the period of military service and is connected with the conditions of employment in military service is liable to be treated as attributable to military service. The findings returned by the Tribunal are based on proper appreciation of the statutory provisions and the law laid down by the Hon'ble Supreme Court and do not suffer from any perversity or patent illegality warranting interference in exercise of writ jurisdiction under Article 226 of the Constitution of India.

15. For the reasons stated hereinabove, we find no illegality, perversity, or infirmity in the impugned order dated 12.11.2024 passed by the AFT warranting interference under Article 226 of the Constitution of India.

16. Accordingly, the instant petition is devoid of merit and is hereby dismissed.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Jammu:
18.05.2026
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