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

# **CNR No. DLHC010382442026**

+ **W.P.(C) 11891/2026**

**COLONEL SAMEER GARG**

.....Petitioner

Through: Appearance not given

versus

**UNION OF INDIA AND ORS**

.....Respondents

Through: Mr. Ruchir Mishra (SPC), Mr. Snehlata. S. Surana (CGSC), Mr. Saurabh Kumar Nagar (GP), Mr. Mukesh Kumar Tiwari, Ms. Rupali Sinha (GP), Mr. Reva Krna Mishra, Advocates  
Capt Himanshu Tyagi Army

**CORAM:**

**HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**ORDER**

% **18.08.2026**

**CM APPL. 55017/2026 (Exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The application, accordingly, stands disposed of.

**W.P.(C) 11891/2026**

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:

*“(A). Admit and allow present WP, Quash and set aside AFT(PB) order dated 01 Jul 2026, passed in OA. 1059/2024.*

*(B). Issue a writ of Mandamus and/or any other appropriate Writ, order or direction to the Respondents to grant arrears of disability pension to*



*the Petitioner from date of holding of release med board (Date of holding of Release Medical Board was 22 Aug 2023).*

*(C). Issue a writ of Mandamus and/or any other appropriate Writ, order or direction to the Respondents to pay interest @ 9 % Per Annum from date of holding of release med board, to till final date of payment, if the order is Not implemented within four weeks of the order, passed by this High Court.”*

2. The challenge in the present petition is to the order of the Armed Forces Tribunal delivered on 01<sup>st</sup> July, 2026, wherein the claim of the petitioner for grant of disability pension came to be rejected.

3. It is the case of the petitioner that he retired from the Army and thereafter, got re-employment in the Army. Thereafter, he was released from the service on account of him suffering from a medical ailment, *i.e.*, primary hypertension.

4. Drawing support from Clause 25 of the Special Army Instruction No. 1/S/80-*Re-employment of Retired Regular Officers-Terms and Condition of Service*, which deals with the benefits, *i.e.*, grant of Disability Pension and Family Pensionary Awards, to be conferred on the re-employed officers, it is urged that the petitioner is entitled for such benefit of grant of disability pension.

5. It is further urged by the counsel for the petitioner that the issue herein is squarely covered by the judgment of the Jammu and Kashmir High Court delivered in the matter of ***Union of India Through Secretary vs. Lt. Col. Som Raj (Retd.)*** decided on 06<sup>th</sup> October, 2025 in W.P.(C) No. 887/2024.

6. As such, it is urged that based on the aforesaid, the petitioner ought to have been held entitled for the grant of disability pension.

7. As against above, the counsel for the respondent would oppose the



prayer, as according to him, the judgment of *Union of India Through Secretary (supra)* is not applicable in the given set of facts and circumstances.

8. Even otherwise, it is urged by the counsel for the respondent that there is a statutory embargo in the claim put forth by the petitioner, which has been rightly validated by the Tribunal, and as such dismissal is sought.

9. With the assistance of the respective counsels, we have gone through the impugned order dated 01<sup>st</sup> July, 2026 passed by the Tribunal.

10. The Tribunal has rightly considered the applicability of Clause 72 of the Pension Regulation for the Army, 2008 (Part-1) which deals with the personnel not eligible for disability pension/special family pension.

11. Sub clause (3) of Clause 72 puts an embargo on the right of the parties, like the present petitioner, who are in the category of officers who have retired from the services of army on completion of age limit in medical category Shape-1 and are re-employed in army and are found to be in low medical category during such re-employment unless the re-employment is terminated on account of disability.

12. The said embargo is rightly so inferred by the Armed Forces Tribunal to the detriment of the petitioner, particularly, when the rule contemplates that such benefits cannot be passed on to the petitioner.

13. As regards the reliance placed by the counsel of the petitioner on the judgment of *Union of India Through Secretary (supra)*, the benefits were extended to the petitioner therein on altogether different set of facts which cannot be equated to that of the facts of the present case.

14. The order of the Armed Forces Tribunal is based on the Service Rules as enumerated in the PRA, 2008 (Part-I) which deals with the very



eventuality which is sought to be canvassed by the petitioner in the present petition.

15. For the said reasons, no case for causing interference is made out.

16. The petition, accordingly, stands dismissed.

**NITIN WASUDEO SAMBRE, J**

**AMIT SHARMA, J**

**AUGUST 18, 2026/dm/gs**