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

Date of decision: 30th September, 2026

CNR No. DLHC010455852026

+ W.P.(C) 14039/2026 & CM APPL. 65670/2026, CM APPL.
65671/2026

1. UNION OF INDIA
THROUGH SECRETARY
MINISTRY OF DEFENCE,
SOUTH BLOCK, DHQ PO,
NEW DELHI - 110001
2. THE CHIEF OF THE ARMY STAFF
IHQ OF MoD (ARMY)
SENA BHAWAN
DHQ PO, NEW DELHI
3. PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS
(PENSION) DRAUPADI GHAT ALLAHABAD (UP)
4. DIRECTOR ADG PS
KG MARG, 110001
NEW DELHI
5. THE OFFICER IN CHARGE
BEG RECORD OFFICE
KIRKEE PUNE.

...PETITIONERS

Through: Mr. Sushil Kumar Pandey, SPC
with Mr. Aman Kumar Pandey,
Advocate
Major Rahul Kumar and Capt.
Himanshu Tyagi



Versus

HAV DHANDEV HARIBA BANE
GANESHNAGAR COLONY NO.17,
BHOOPKHEL, CME PUNE-411031 **...RESPONDENT**

Through: Mr. Durgesh Kumar Sharma,
Advocate

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE SANJAY SHARMA

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. The challenge in the present petition is to the order dated 4th October, 2024, delivered by the Armed Forces Tribunal, Principal Seat, New Delhi (hereinafter referred to as the 'Tribunal'), in Original Application No.3043/2023.
2. *Vide* the impugned order referred to above, the Tribunal has directed the petitioners to calculate, sanction and issue the necessary Pension Payment order to the respondent within a period of four weeks from receipt of a copy of the said order, failing which, the same was to carry interest @ 6% per annum. The entitlement to the benefit under the said order is based on the disability suffered by respondent, namely, hypertension, and such degree of disability has been assessed at 50%.
3. Learned counsel for the petitioners submits that the Tribunal was in error in granting the benefit to the respondent, particularly when his claim was entertained and granted after a delay of 15 years. According to the petitioners, the delay was not at all explained by the respondent before the Tribunal and still the Tribunal, by relying on the



judgment of the Apex Court in the matter of ***Union of India & Ors. vs. Tarsem Singh*** [2009 (1) AISLJ 371], proceeded to condone the delay of more than 15 years. He would further invite our attention to Section 21 of the Armed Forces Tribunal, Act, 2007 (hereinafter referred to as the 'Act of 2007') so as to claim that the respondent, though entitled to have recourse to an alternate remedy once his prayer for pension was rejected way back on 1st July, 2008, when he was informed by the Release Medical Board that the hypertension suffered by the respondent was neither attributable to services nor aggravated by the service conditions. As such, learned counsel for the petitioners states that the impugned order of the Tribunal goes contrary to the mandate of Section 21 of the Act of 2007.

4. Apart from the above, it is the contention of learned counsel for the petitioners that there is hardly any material to infer that the hypertension suffered by the respondent can be said to be attributable to service or aggravated by service conditions. He would invite our attention of this Court to the judgement of the Apex Court in the matter of ***Union of India & Ors. Vs. Col. NC Issac (Retd.)*** [SLP (Civil) No.3680 of 2025]2026 SCC OnLine SC 1895 to contend that the Tribunal has taken a view contrary to the judgement of the Apex Court. Particularly, when the Release Medical Board had reached a conclusion that hypertension suffered by the respondent could not be said to be attributable to service or aggravated by service conditions, it ought not to have substituted its view for that of the Medical Board report of 2007. As such, it is urged that impugned order is not sustainable and is liable to be quashed and set-aside.

5. As against the above, learned counsel for the respondent would



support the impugned order. According to him, denial of disability pension is considered to be the continuing wrong and, in such an eventuality, the claim cannot be said to be barred by limitation. According to him, the Tribunal has rightly relied upon the judgment of Apex Court in the matter of **Union of India & Ors Vs. Tarsem Singh** (referred above). He would further urge that, at page 254 of the paperbook, there is an opinion of the Medical Expert, wherein it is certified that the respondent not only suffered from hypertension but also that ECG changes in regard to his heart functioning were also noticed. It is urged that the Release Medical Board had taken the said facts into consideration before authoring the report placed at page 323 of the paperbook, wherein it was observed that the hypertension could not be said to be attributable to service or aggravated by service conditions. He would further urge that the Tribunal, having exercised its jurisdiction, was justified in exercising powers, particularly, when the judgment of Apex Court in the matter of **Union of India Vs. Col. NC Issac (Retd.)** (referred above) was not brought to the notice of the Tribunal. Even otherwise, it is urged that the Tribunal has not substituted its view for that of Release Medical Board but has appreciated the earlier report of 2007, when the respondent was on a U.N. Mission to Sudan, where he suffered hypertension and ECG changes were also noticed.

6. We have considered the rival claims.

7. The fact remains that there exists a medical report authored by **Dr. P.K. Shukla**, a classified Specialist. The said report is dated 24th /25th April 2007, wherein it is specifically observed that the respondent was found to be suffering from hypertension, and ECG



changes were also noticed during his tenure with the U.N. Mission in Sudan. The blood pressure parameters are specifically recorded in the said report.

8. Apart from the above, the fact remains that when the Release Medical Board considered the case of the respondent, the Board admittedly recorded about the respondent suffering from primary hypertension. The opinion of the Medical Board speaks of that the hypertension can be said to be connected with the service, however, in the column titled '*Attributable or Aggravated*', the Medical Board has stated 'NO'. The Medical Board has further mentioned that the hypertension was not related to Army Services.

9. The aforesaid report goes contrary to the report given by the Doctor/Subject Expert when the respondent was serving on U.N. Mission.

10. In such an eventuality, the Tribunal, in our opinion, was justified in having regard to the Doctor's report from Sudan to infer that the respondent, during his tenure in Sudan, was found to be suffering from hypertension and that changes were also noticed in his ECG. As such, it cannot be said that the Tribunal has substituted its view for that of the Release Medical Board. Rather, the Tribunal has appreciated the material on record and decided to confer the benefit of disability pension upon the respondent.

11. The contention that claim of respondent was time barred also does not hold good, particularly when the non-grant of disability pension constitutes a continuing wrong. In such an eventuality, the Tribunal has rightly granted the relief. In that view of the matter, it cannot be said that the claim of the respondent was either barred by



limitation or the claim was liable to be rejected on merits. As such, the Tribunal cannot be said to have committed any error in granting benefit.

12. As far as the contention that Section 21 of the Act of 2007 contemplates a remedy of appeal available to the respondent, which he has not taken recourse to, that by itself, will not lead to an inference that the respondent cannot be said to be entitled for benefit of grant of disability pension. The fact remains that there were two reports, one from Medical Officer at Sudan and another from the Release Medical Board, and the Tribunal has appreciated the same and granted the relief. As such, the embargo under Section 21 of the Act of 2007 will not operate in the facts and circumstances of the present case.

13. One more reason why we are not inclined to interfere in the matter is that the PPO has already been issued and the amount has also been released in favour of the respondent.

14. In view of above, the petition lacks merit and stands dismissed.

15. Pending applications also stand disposed of.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**SANJAY SHARMA
(JUDGE)**

SEPTEMBER 30, 2026/ay/ok