



2024:DHC:9500-DB



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

***Date of decision: 05.12.2024***

+ W.P.(C) 13683/2024 & CM APPL. 57314/2024  
UNION OF INDIA & ORS.

.....Petitioners

Through: Ms. Radhika Bishwajit  
Dubey, CGSC with Ms. Gurleen  
Kaur Waraich and Mr. Aviral  
Jain, Adv.s. Sgt. Manish Kumar  
Singh, Sgt. Mritunjay, Legal  
Cell, Air Force.

versus

GP CAPT S MEDIRATTA  
VSM 18893 ADM FC RETD

.....Respondent

Through: Mr. Ajai Bhalla, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**NAVIN CHAWLA, J. (Oral)**

1. This petition has been filed challenging the order dated 13.04.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi, in Original Application No. 1979/2021, allowing the Original Application filed by the respondent herein with the following direction:-

*“7. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of receipt of copy of this order and the amount of arrears shall be paid*



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*by the respondents, failing which the applicant will be entitled for interest @6%p.a. from the date of receipt of copy of the order by the respondents."*

2. It is the case of the petitioners that the learned Tribunal has wrongly placed reliance on the Judgment of the Supreme Court in ***Dharamvir Singh v. Union of India and Others***, (2013) 7 SCC 316, and drawn a presumption in favour of the respondent for allowing the Original Application. The learned counsel for the petitioners submits that the medical board proceedings could not have been interfered with by the learned Tribunal.

3. On the other hand, the learned counsel for the respondent has drawn our attention to the medical board proceedings and submits that, based on a report from a specialist, the medical board had earlier opined that the disability, namely, Primary Hypertension, suffered by the respondent was aggravated by service due to stress and strain in high altitude field posting. The said opinion, however, was disagreed with by the Headquarters, and the medical board was directed to provide justification for the opinion. The medical board was directed to change the opinion, which it subsequently did, now stating that the disability was not aggravated by service. He submits that, in fact, this itself smacked of mala fide.

4. We tend to agree with the submission made by the learned counsel for the respondent.

5. In the present case, the medical board, after considering the high altitude field posting of the respondent in Shillong, had clearly



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opined that the disability suffered by the respondent was aggravated by service. It was changed only at the direction of the Headquarters, this time without assigning any reason and merely stating that as the occurrence had taken place in a peace area, it could not be stated to have been aggravated by service. The Medical Board having acted at the dictate of the administrative body, the order denying disability pension to the respondent based thereon, is rendered illegal.

6. We, therefore, do not see any reason to interfere with the finding/direction of the learned Tribunal.

7. Accordingly, we do not find any merit in the present petition. The same is dismissed. Pending application is also dismissed.

**NAVIN CHAWLA, J**

**SHALINDER KAUR, J**

**DECEMBER 5, 2024/rv/VS**

*Click here to check corrigendum, if any*