



2024:DHC:9392-DB



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

Date of decision: 04.12.2024

+ W.P.(C) 16773/2024

UNION OF INDIA & ORS.Petitioners

Through: Dr.Vijendra Singh, CGSC

versus

LT COL AA GODBOLE (RETD.)Respondent

Through: Counsel (appearance not given)

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 70962/2024 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 16773/2024 & CM APPL. 70961/2024

2. This petition has been filed by the petitioner challenging the order dated 21.04.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No.971/2022, titled *Lt. Col. A. A. Godbole (Retd) v. Union of India & Ors.*, allowing the said Original Application filed by the respondent herein and holding the respondent to be entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his



2024:DHC:9392-DB



discharge.

3. The learned counsel for the petitioner submits that the Impugned Order is a non-speaking order and has based its finding only on the Judgment of the Supreme Court in ***Dharamair Singh v. Union of India & Ors.*** (2013) 7 SCC 316, without discussing any facts.

4. While we do find merit in the submissions made by the learned counsel for the petitioners, however, at the same time, we must also note that the Release Medical Board, held on 21.09.2015, in its finding had clearly recorded that the disability suffered by the respondent was aggravated by military service. We may reproduce the relevant finding of the Release Medical Board as under:

OPINION OF THE MEDICAL BOARD				
Medical board having examined the individual and after perusing all available documents is of the consensus opinion as under:-				
1. Causal Relationship of the disability with service conditions or otherwise				
Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	Not connected with service (Y/N)	Reasons/causes/specific conditions and period in service
PRIMARY HYPERTENSION (V10)	No	Yes	No	Onset of ID was in peace stn on Mar 2009. After diagnosed offr was posted to IS area from Aug 2009 to Oct 2011. Hence conceded as aggravated by military service vide MA (pensions) Offec of the DGAFMS letter No 16038/RMB/INB/DGAFMS/MA (Pens) dt 04 Dec 2012.

Note A disability 'Not connected with service' would be neither Attributable nor aggravated by service. (This is in accordance with instructions contained in Guide to Medical Officers (Mil Pension) - 2002)

5. In view of the above finding of the Release Medical Board itself, in fact, we fail to understand how the petitioners could have denied the disability pension to the respondent. The learned counsel for the petitioners has not been able to show us the reason why despite the Release Medical Board's opinion, the respondent was not granted the disability pension.



2024:DHC:9392-DB



6. We, therefore, dismiss the present petition. The pending application is also disposed of.

7. There shall be no order as to costs.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 4, 2024/Arya/VS

Click here to check corrigendum, if any