

W.P.No.20414 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2025

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CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.No.20414 of 2024

1. The Union of India
represented by the Secretary
Ministry of Defence
Government of India
South Block, New Delhi 110 011
2. The Chief of Army Staff
Army Head Quarters
IHQ DHQ Post, South Block
New Delhi 110 011
3. Principal Controller of Defence Accounts (Pension)
Draupadi Ghat, Allahabad
Uttar Pradesh 211 014
4. The Senior Records Officer
Records Officer, EME Records
Secunderabad 500 021
5. Adjutant Generals Branch
Addl Directorate Genl of Personnel Services
IHQ of MoD (Army), M Block, Room No.100
Church Road, New Delhi 110 001 .. Petitioners



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v.

1. Ex Hav Amal Singh David SP
No.14627839H
S/o late D.G.Prakasam

2. The Registrar
Armed Forces Tribunal
Rudra Road
St.Thomas Mount
Chennai 600 116

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records dated 02.02.2023 passed in OA No.119 of 2021 on the file of the 2nd respondent thereby quashing the impugned order.

For Petitioners :: Mr.V.Balasubramanian
Senior Panel Counsel

For Respondents :: Mr.D.Solomon Pandian for R1
R2-Tribunal

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

Under assail is the order dated 02.02.2023 passed by the Armed Forces Tribunal, Regional Bench at Chennai in O.A.No.119 of 2021.

2. The first respondent instituted original application claiming



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disability pension @ 30% w.e.f. 01.10.2019, duly broadbanding to 50% with arrears and interest, which was allowed by the Armed Forces Tribunal by the impugned order. Aggrieved thereby, the respondents in the original application have instituted the present writ petition before this Court.

3. The records would show that the first respondent was enrolled in the Indian Army on 02.09.1995 and discharged from service on 30.09.2019 after rendering 24 years and 29 days of service. It is not in dispute that the first respondent is in receipt of service pension with effect from 01.10.2019. The first respondent was placed in low medical category P2 (P) for disability due to Primary Hypertension and the Release Medical Board considered the disability as neither attributable to nor aggravated by military service, as the onset of the disability was in modified field area and there is no evidence of stress and strain due to military service. Therefore, the claim of the first respondent for grant of disability pension was rejected vide the letter dated 30.06.2019, as he did not fulfill the conditions laid down in Para 179 of the Pension Regulations for the Army, 1961 (Part 1). The first and second appeals preferred by the first respondent were also rejected by the appellate



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authorities vide the letters dated 14.09.2020 and 06.07.2021 stating that the disability is neither attributable to nor aggravated by military service.

However, the Armed Forces Tribunal, ignoring the report of the Release Medical Board, relying upon the judgment of the Hon'ble Supreme Court in *Dharamvir Singh v. Union of India*, has erroneously allowed the claim of the first respondent for grant of disability pension.

4. Heard the learned counsels appearing for the parties to the lis. Question arises whether the first respondent is eligible to claim disability element of pension under Para 179 of the Pension Regulations for the Army, 1961 (Part 1)?

5. Para 179 of the Pension Regulations for the Army, 1961 (Part 1) reads as under:-

“179. An individual retired/discharged on completion of tenure or on completion of service limits or on completion of terms of engagement or on attaining the age of 50 years (irrespective of their period of engagement), if found suffering from a disability attributable to or aggravated by military service and recorded by Service Medical Authorities, shall be deemed to have been



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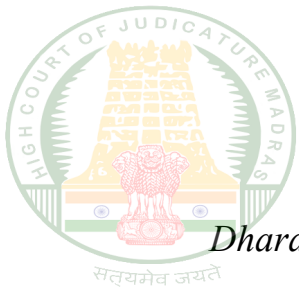
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invalided out of service and shall be granted disability pension from the date of retirement, if the accepted degree of disability is 20 percent or more, and service element if the degree of disability is less than 20 per cent. The service pension/service gratuity, if already sanctioned and paid, shall be adjusted against the disability pension/service element, as the case may be.”

6. The above provision in clear terms indicates that a disability which is either attributable to or aggravated by military service and so recorded by Release Medical Board, may be taken into consideration for grant of disability pension. In the case of first respondent, the disability and the reasons recorded by the competent authority read as under:-

<i>S. No.</i>	<i>Disability</i>	<i>Reason(s)</i>
(a)	Primary Hypertension	Primary Hypertension is a lifestyle disorder and is per se not attributable to service. Aggravation is conceded when onset occurs while serving in Fd/CI Ops/HAA. In the instant case, the onset of disability was in a peace station and the individual continue to serve in peace till retirement. Hence, the disability is conceded as neither attributable to nor aggravated by service in terms of Para 43, Chap VI, GMO 2002, amendment 2008.

7. The Tribunal, while granting relief in favour of the first respondent, relied on the judgment of the Hon'ble Supreme Court in the case of



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Dharamvir Singh v. Union of India and others, (2013) 7 SCC 316. In the

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said case, the Supreme Court, in paragraph 32, reiterating the principles that each case and its facts ought to be considered with reference to the nature of disability and with reference to the medical evidence available on record, observed as follows:-

“32. Para 1 of Chapter II -- “Entitlement: General Principles” specifically stipulates that certificate of a constituted medical authority vis-a-vis invalidating disability, or death, forms the basis of compensation payable by the Government, the decision to admit or refuse entitlement is not solely a matter which can be determined finally by the medical authorities alone. It may require also the consideration of other circumstances e.g. service conditions, pre and post-service history, verification of wound or injury, corroboration of statements, collecting and weighing the value of evidence, and in some instances, matters of military law and dispute. For the said reasons the Medical Board was required to examine the cases in the light of etiology of the particular disease and after considering all the relevant particulars of a case, it was required to record its conclusion with reasons in support, in clear terms and language which the Pension Sanctioning



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Authority would be able to appreciate.”

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8. In the case before the Supreme Court, the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant therein at the time of acceptance for military service. However, in the present case, medical records are considered along with the nature of disability suffered by the first respondent.

9. The disability reasons stated in the case of the first respondent specifically reveal that the onset of disability was in a peace station and the individual continued to serve in peace station till his retirement. Hence, Release Medical Board has properly held the disability as neither attributable to nor aggravated by military service. When the medical assessment per se would indicate that the first respondent is ineligible for disability pension, the observations of the Hon'ble Supreme Court in Dharamvir Singh's case would be of no assistance to the first respondent to secure the relief from the hands of the Tribunal.



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10. In view of the above facts and circumstances, the order impugned passed by the Armed Forces Tribunal, Regional Bench, Chennai dated 02.02.2023 in O.A.No.119 of 2021 is quashed and the writ petition stands allowed. Consequently, W.M.P.Nos.22344 & 22346 of 2024 are closed. No costs.

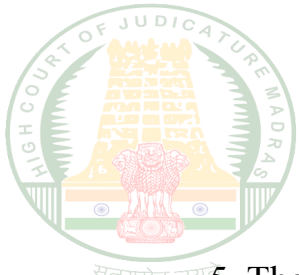
Index : yes
Neutral citation : yes

(S.M.S.,J.) (K.R.S.,J.)
07.03.2025

ss

To

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Ministry of Defence
Government of India
South Block, New Delhi 110 011
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5. The Addl. Director General of Personnel Services
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