



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

144

CWP-20253-2025  
Date of Decision : 28.07.2025

UNION OF INDIA AND OTHERS

.....Petitioners

*VERSUS*

COL. B.S.BISHT AND ANOTHER

....Respondents

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CWP-20887-2025

UNION OF INDIA AND OTHERS

.....Petitioners

*VERSUS*

KANWALJIT SINGH AND ANOTHER

....Respondents

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CWP-21033-2025

UNION OF INDIA AND OTHERS

.....Petitioners

*VERSUS*

KARNAIL SINGH AND ANOTHER

....Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA  
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Ms. Geeta Singhwal, Advocate,  
for the petitioners (Sr. No.144)

Mr. Ashish Chaudhary, Sr. Panel Counsel,  
for the petitioners-UOI (Sr. 168)

Ms. Sonia Sharma, Sr. Panel Counsel,  
for the petitioners-UOI (Sr. 174)  
Mr. Navdeep Singh, Advocate with  
Ms. Roopan Atwal, Advocate  
for respondent no.1.



**ASHWANI KUMAR MISHRA, J. (ORAL)**

1. This order shall dispose of above 3 writ petitions, wherein a common issue is involved, and for the sake of brevity, the facts are being culled out from CWP-20253-2025.

2. This petition is filed by the Union of India (UOI) challenging the order dated 27.01.2025 (Annexure P-1), passed by the Armed Forces Tribunal concerned, in OA No.1386 of 2021, whereby respondent no.1 has been held entitled to Disability Pension on account of Primary Hypertension.

3. The Tribunal has held this issue to be covered by a previous adjudication made in OA No. 861 of 2022 titled as '*Ex.MWO Bhupinder Singh vs. Union of India and others*', against which a writ petition filed before this Court has also been dismissed. The operative portion of the order of the Tribunal, as is contained in paragraph no.4 is as under:-

“4. Accordingly, the Original Application is allowed in terms of Bhupinder Singh's case (Supra). The applicant would also be entitled to disability element for disability of 'Primary Hypertension' @ 30% for life rounded off to 50%. Additional Director General Personal Services 4 is directed to get the composite assessment made within a period of one month from the receipt of certified copy of this order by the respondents' counsel/OIC Legal Cell and within three months thereafter corrigendum Pension Payment Order shall be issued in respect of composite assessment of disability element. However, arrears be also paid within the said period, failing which the same shall become payable with interest @ 6% per annum.”

4. The instant writ petition has been filed by the Union of India without annexing the report of the Release Medical Board or the order by which the claim has been rejected.

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5. The Tribunal however, has noticed that at the time of examination of respondent no.1 by the Release Medical Board, he was found to be suffering from following three diseases:-

- (a) B/L Noise Induced Hearing Loss, the extent of which was assessed 20% for life and aggravated by military service;
- (b) 'Primary Hypertension' to the extent of which was assessed 30% for life but neither attributable to nor aggravated by military service, and;
- (c) 'Diabetes Mellitus Type-2' the extent of which was assessed 20% for life but neither attributable to nor aggravated by military service.

6. The grievance, as raised before the Tribunal was confined to inclusion Primary Hypertension as one of the diseases for purpose of granting of Disability Pension.

7. Learned counsel for the respondent no.1 has produced before this Court the report of the Release Medical Board, in which the date of origin of Primary Hypertension is mentioned as January, 2011. (Copy of the same is taken on record as Mark 'X'). The Release Medical Board, also shows that such disability was not possessed by respondent no.1, at the of entering into service. It has further been observed that the disability is not attributable to the negligence or misconduct on the part of respondent no.1.

8. So far as, the issue of Primary Hypertension being one of the diseases in respect of which the Disability Pension could not allowed, is concerned, the same stands adjudicated by the Supreme Court in ***Union of India and another vs. Rajbir Singh***, (2015) 12 SCC 264.

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9. Learned counsel for the petitioners has tried to distinguish the judgment (*supra*) on the ground that the disability rules, which were then in force have been substituted with the the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 (hereinafter referred to as the 'Rules of 2008').

10. According to the petitioners Rules of 2008, has since come into operation, therefore, the previous judgments ought to be discarded.

11. The submission in that regard is noted only to be rejected.

12. The Rules of 2008, have been introduced by substituting the previous rules issued the competent authority for the purpose. The amended Rule 4(a) provides that invalidation from service with disablement caused by service factor is a condition precedent for grant of Disability Pension.

13. The latter part of the said rule, however, contemplates that the disability element will also be admissible to personnel who retire or discharged on completion of terms of engagement in low medical category on account of disability attributable to or aggravated by military service, provided that the disability is accepted as not less than 20%.

The said rule reads as under:-

4(a). Invalidation from service with disablement caused by service factors is a condition precedent for grant of disability pension. However, disability element will also be admissible to personnel who retire or are discharged on completion of terms of engagement in low medical category on account of disability attributable to or aggravated by military service, provided the disability is accepted as not less than 20%.

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14. Rule 4(a), therefore, makes it apparent that the Disability Pension would be admissible to a defence personnel, where he is invalidated from service caused by service factors.

15. The other category where the personnel either retired or is discharged on completion of the terms of engagement due to low medical category on account disability attributable to or aggravated by military service would, however, be entitled to Disability Pension, build a disability accepted, is not less than 20%.

16. Rule 10 of the Rules of 2008, deals with 'Attributability'. Clause (b) thereof specifies the diseases for the purposes of low medical category of the disease.

17. Attention of this Court has been invited to sub clause (iii) of Rule 10(b) which reads as under:-

“(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted; attributability 'should be conceded on the basis of the clinical picture and current scientific medical application. ”

18. The provision aforesaid, clearly goes to show that even under Rules of 2008, where the cause of disease is not known, the presumption of entitlement is in favour of the claimant, unless is not rebutted and the attributability should be considered on the basis of clinical picture and current scientific medical application.

19. It is therefore, clear that even under the amended rules the presumption of entitlement would continue to exist where the cause of

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disease is not known. In the facts of the present case, the cause of the disease has not been specified.

20. The RMB has not attributed, such low medical condition to any misconduct or act of respondent concerned. At this juncture, we may also refer to Rule 5 and Rule 7 of the Rules of 2008, which reads as under:-

**Rule 5- Medical Test at entry stage:** The medical test at the time of entry is not exhaustive, but its scope is limited to broad physical examination. Therefore, it may not detect some dormant disease. Besides, certain hereditary constitutional and congenital diseases may manifest later in life, irrespective of service conditions. The mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service.

**7. Onus of proof:** Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.

21. Under the amended Rule 7 ordinarily the claimant will not be called upon to prove the conditions of entitlement. It is only where the claim is preferred after 15 years of discharge, in that case, such onus to prove the entitlement would lie on the claimant.

22. In a case of the present kind, where the army personnel at the time of entering into the service, was in sound medical condition and the origin of the disease is during the service and the cause of disease is not ascertained, the presumption of sub rule (iii) Rule 10(b) would clearly cast a presumption of entitlement in favour of the claimant.

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23. Attention of this Court has also been invited to Regulation 423(a) of Regulations for the Medical Services in the Armed Forces, 2010, which has been amended in the earlier Rules of 1980, with the Rules of 2010, which is extracted hereinafter:-

“423(a). For the purpose of determining whether the cause of a disability or death resulting from disease is or not attributable to Service. It is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a Field Area/Active Service area or under normal peace conditions. It is however, essential to establish whether the disability or death bore a causal connection with the service conditions.

All evidences both direct and circumstantial will be taken into account and benefit of reasonable doubt, if any, will be given to the individual. The evidence to be accepted as reasonable doubt for the purpose of these instructions should be of a degree of cogency, which though not reaching certainty, nevertheless carries a high degree of probability. In this connection, it will be remembered that proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. If the evidence is so strong against an individual as to leave only a remote possibility in his/her favor, which can be dismissed with the sentence "of course it is possible but not in the least probable" the case is proved beyond reasonable doubt. If on the other hand, the evidence be so evenly balanced as to render impracticable a determinate conclusion one way or the other, then the case would be one in which the benefit of the doubt could be given more liberally to the individual, in case occurring in Field Service/Active Service areas.”

24. In that view of the matter, this Court finds that the Tribunal has not committed any error in issuing the direction to the competent authority concerned, to get the composite assessment of Disability Pension undertaken by including disability element of Primary Hypertension to the extent of 30% for life, rounded off to 50%.

25. This Court, accordingly, find no ground to interfere with the order (*supra*), passed by the Tribunal.

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26. The instant petitions are, accordingly, **dismissed**.
27. All pending application(s), if any, also stand **disposed** of accordingly.

(ASHWANI KUMAR MISHRA)  
JUDGE

(KULDEEP TIWARI)  
JUDGE

July 28, 2025  
*dharamvir*

|                            |   |        |
|----------------------------|---|--------|
| Whether speaking/reasoned. | : | Yes/No |
| Whether Reportable.        | : | Yes/No |