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

\+ W.P.(C) 3432/2022

ROHIT CHOUDHARY .....Petitioner

Through: Ms. Pallavi Awasthi and Ms. Vaibhavi Mittal, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Jitesh Vikram Srivastava and Mr. Dipanshu Sharma, Advs.

\+ W.P.(C) 3631/2022

ANUPAM BHANDARI .....Petitioner

Through: Ms. Pallavi Awasthi and Ms. Vaibhavi Mittal, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Ms. Nidhi Banga, Sr. PC with Mr. Sandeep Chaudhary, Adv. for UOI with Major Anish Muralidhar and Captain Carolin Johnson (Army)

\+ W.P.(C) 4596/2022

NIDHI PARIHAR .....Petitioner

Through: Ms. Pallavi Awasthi and Ms. Vaibhavi Mittal, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr Sandeep Tyagi, Sr. PC for UOI with Capt V. Sridhar, GP, SGT Manish Kumar and SGT Mritunjay (Air Force Legal Cell) DAV

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 27.08.2025

C. HARI SHANKAR, J.

1. As these writ petitions involve similar issues which were heard together – though they do not invite similar outcomes – they are being disposed of by this common judgement.

W.P.(C) 3432/2022

2. The petitioner having been selected as a Flight Cadet in the Indian Air Force joined the Air Force Academy[1] at Hyderabad. Prior to commencement of training, he underwent a medical examination dt. 3 April 2013 and was declared fit in the category A1G1 for all duties of the F (P)[2] branch, signifying his complete fitness to undertake the rigours of basic flying training.

3. On 25 July 2013, during training at AFA Hyderabad, the petitioner suffered a seizure and was diagnosed with Solitary Generalized Seizure (Idiopathic Epilepsy). He was thereafter

[1] "AFA" hereinafter
[2] Flying Pilot

transferred to CH (SC) Pune on 8 August 2013 where his EEG revealed abnormal discharges. He was re-admitted to 14 AFH for Invalid Medical Board Proceedings on 29 August 2013.

4. The petitioner was issued a Show Cause Notice dated 11 September 2013 proposing invalidation on medical grounds for Generalized Seizure placing him in Low Medical Category. On 17 September 2013, the Invalid Medical Board[3] assessed the disability at 20% for life with onset on 25 July 2013 during training but opined that it was "not connected with service".

5. Being aggrieved by respondents' inaction, the petitioner has approached this Court by way of the present Writ Petition.

6. Ms. Pallavi Awasthi, learned counsel for the petitioner submits that the IMB dated 17 September 2013 assessed Generalized Seizures at 20% for life but wrongly declared it as not attributable to or aggravated by military service contrary to the presumption of attributability. Ms. Awasthi further stated that the very expression "idiopathic" denotes the cause of the ailment was unknown; ergo, given the fact that the petitioner was not detected as suffering from any such seizures before commencement of training, it had to be presumed that the seizures were attributable to the rigour, stress and strain of training.

[3] "IMB" hereinafter

7. She therefore submits that the petitioner was entitled to disability pension, *ex gratia* and Ex Service Man[4] status.

8. It is further submitted that the Petitioner's first seizure occurred during AFA training and thus attracts the presumption of service connection. Reliance is also placed on MoD letter dated 16 April 1996, para 2 of which reads:

> "Ex-Gratia Awards in cases of disablement: In cases of invalidment on medical grounds due to disabilities attributable to or aggravated by the conditions of military training, an ex-gratia award at the rate of Rs. 375/- per month for life shall be admissible to the ex-cadets (except service entry). In addition a disability award on ex-gratia basis shall also be admissible to the ex-cadet at the rate of Rs. 600/- per month for 100% disability, during the period of disablement. The amount of disability award shall be proportionately reduced when the degree of disablement is less than 100%. No disability award shall be payable in cases where the degree of disablement is less than 20% or the disablement has not been accepted as attributable to or aggravated by the conditions of military training."

9. Ms. Awasthi places reliance on ***Puneet Gupta v UOI***[5], rendered by a Division Bench this Court, from which she cites the following paragraphs:

> "Having successfully cleared the selection process, the petitioner was inducted in the Accounts Branch of the Indian Air Force as a trainee and was deputed at 121 Ground Duty Officers Commissioning in the Accounts Branch at Hyderabad. The superior officer detected abnormality in the movement of the petitioner who one fine morning gave a groan and fell down. It was a case of seizure. The petitioner was hospitalized and was found to be suffering from Generalized Seizures.
>
> 2. Required by law to be examined by a medical board before

[4] ESM
[5] **2016 SCC OnLine Del 3846**

a decision was taken on petitioner's retention as a trainee and thereafter induction in service, the petitioner was examined by a board of doctors at 14 Air Force Hospital. On November 20, 2007 the petitioner was informed the opinion of the medical board. The letter dated November 20, 2007 reads as under:

ABSTRACT OF RECORDS OF AFMSF-16/17 THE INVALIDING MEDICAL BOARD (IMB)/TO BE HANDED OVER TO THE INDIVIDUAL

1. Service No. 154564-H Rank Flt/Cdt. Name: Puneet Gupta Unit/Record Office: 409 AFSTn./AFRO was brought before RMB/IMB/RAMB on (date) Jun 07 at 409 AF Stn (Med Sqn.) Hospital for the disability.

2. Photocopy of specialist's opinions is enclosed herewith for information of the individual concerned. The opinion of the medical board is summarized as below:

Disabilities	Attributable to Service	Aggravated by Service	Reasons
Generalized G 40.3 Seizures	*NO*	*NO*	*Disability Constitutional in nature*
Assessment			
Disabilities	*Assessment for each disability*	*Composite assessment*	*Reasons*
Generalized G 40.3 Seizures	*15-19%*	*15-19% (Fifteen to Nineteen Percent)*	*As per grade to MO Mil Pen (Blue book)*

This is subject to approval of the competent authority."

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10. The grant of disability pension, called by the name '*Ex-gratia award*' is in the policy circular dated April 16, 1996 issued by the Government of India, Ministry of Defence. It deals with grant of ex-gratia in case of death/disablement of cadets due to causes attributable to or aggravated by military training. Paragraph 2 whereof reads as under: -

*****[6]

11. It this paragraph, which has been referred to in the rejection letter dated April 17, 2014 wherein a reference is made to the

[6] Already extracted *supra*

policy circular dated April 16, 1996. It is the stand of the respondents that no disability award is payable in case degree of disablement is less than 20% or the disablement has not been accepted as attributable to or aggravated by the conditions of military training.

12. Notwithstanding it being initially conveyed to the petitioner in the letter dated November 20, 2007 that as per the medical board the disablement was neither attributable to nor aggravated by military training, in the counter affidavit filed and prior thereto in the communication dated April 17, 2014, it has been admitted that the medical board opined that the disability was aggravated by military training. We find that the medical board has so opined while filling up the proforma after the petitioner was medically examined and therefore cannot help expressing our displeasure at a false stand taken by the respondents in its first communication dated November 20, 2007 to the petitioner that the medical board had opined the disability neither attributable to nor aggravated by service.

13. Thus, the condition of the policy circular dated April 16, 1996, of the disablement being aggravated due to service is satisfied in the instant case as conceded to by learned counsel for the respondents."

10. Ms. Awasthi further relies on the judgement of a learned Single Judge of the High Court of Punjab & Haryana in ***Parveen Salaria v UOI***[7].

11. Learned counsel for the Respondent submits that, as per the existing policy, ex cadets are not entitled to disability pension and cadets invalided out on medical grounds attributable to or aggravated by military training are only eligible for *ex gratia* awards under MOD letter dated 16 April 1996, and would not be entitled to broad banding of disability either. For this purpose, he relies on order dated 16 April 2025 passed by the Supreme Court in SLP (Civil) 15504/2025[8],

[7] **2025 SCC OnLine P & H 1036**
[8] **UOI v Shreya Manhas**

wherein the Supreme Court, while noticing Clause 7 of letter dated 16 April 1996 clarified that cadets are entitled only to *ex gratia* payments and not pension and has stayed the order directing broad banding of disability.

12. Since the applicant is an ex-cadet and his disability is neither attributable to nor aggravated by military service, learned Counsel submits that he is not entitled to disability pension or ex-gratia awards.

Analysis and Findings

13. Having heard learned Counsel, we are inclined to allow the writ petition for the following reasons:

(i) The petitioner at the time of entry was classified as SHAPE-1 and in optimum physical condition. There was no reference at that time could any pre-disposing ailment of seizure or any other such ailment.

(ii) The report of the doctor on the basis of whose report the Medical Board had arrived at its findings itself says that the onset of ailment was during training. There is nothing in the said report to indicate that, prior thereto, there were any episodes of epilepsy or seizure.

(iii) The report also indicates that the cause of the seizure could be sleep deprivation and other such factors which were undergone by the candidate during training.

(iv) In these circumstances, the onus was on the respondents to identify any other cause for the seizures which the petitioner suffered. No other such cause has been identified.

(v) The Medical Board merely refers to para 33 of the Guide to Medical Officers (Military Pensions) 2008. The said paragraph read thus:

> "33. **Epilepsy**. This is a disease which may develop at any age without obvious discoverable cause. The persons who develop epilepsy while serving in forces are commonly adolescents with or without ascertainable family history of disease. The onset of epilepsy does not exclude constitutional idiopathic type of epilepsy but possibility of organic lesion of the brain associated with cerebral trauma, infections (meningitis, cysticercus, encephalitis, TB) cerebral anoxia in relation to service in HAA, cerebral infarction and hemorrhage, and certain metabolic (diabetes) and demyelinating disease should be kept in mind.
>
> The factors which may trigger the seizures are sleep deprivation, emotional stress, physical and mental exhaustion, infection and pyrexia and loud noise. Acceptance is on the basis of attributability if the cause is infection, service related trauma.
>
> Epilepsy can develop after time lag/latent period of 7 years front the exposure to offending agent (Trauma, Infection, TB). This factor should be borne in mind before rejecting epilepsy cases.
>
> Where evidence exists that a person while on active service such as participation in battles, warlike front line operation, bombing, siege, jungle war-fare training or intensive military training with troops, service in HAA, strenuous operational duties in aid of civil power, LRP on mountains, high altitude flying, prolonged afloat service and deep sea diving, service in sub-marine, entitlement of aggravation will be appropriate if time attack takes place while serving in those areas."

Para 33 does not in any way throw any light on whether the seizures with which the petitioner suffered was attributable to service or otherwise.

(vi) Insofar as the entries by the Board in the Medical Board proceedings are concerned, to the query as to whether the disease was present at the time when the candidate joins service, the opinion of the Medical Board reads: "Could be". Though there was also an option to answer "Yes or No", no such categorical answer has provided. "Could be", clearly, is neither here or there.

(vii) In these circumstances, we are of the opinion that the benefit of doubt, given the position of law enunciated in ***Dharamvir Singh v UOI***[9] etc. has to be accorded to the petitioner.

(viii) Accordingly, we hold, following the example in ***Puneet Gupta v UOI***[10]**,** that the petitioner would be entitled to *ex gratia* award and disability award, in terms of para 2 of the policy circular dated 16 April 1996. However, the petitioner would not be entitled to broad banding in view of the stay granted by the Supreme Court in ***UOI v Shreya Manhas***[11]**.**

14. Let the aforesaid payments be made to the petitioner positively within a period of four weeks from today. Failure to which the

[9] **(2013) 7 SCC 316**
[10] **Civil Writ Petition No.6466/2024,** decided on 12 July 2016
[11] **Special Leave Petition (Civil) Diary No.15604/2025,** dated 16 April 2025

amounts would carry interest at the rate of 9% per annum.

15. The writ petition is allowed to the aforesaid extent.

16. The arrears of pension would be restricted to a period of three years prior to the filing of the writ petition.

WP (C) 3631/2022 [*Anupam Bhandari v UOI*]

17. The facts of this case are identical to those of WP (C) 3432/2022. The petitioner, in this case, suffered an episode of unconsciousness following a fall during training, which was diagnosed as due to seizure. Else, the factual matrix is identical.

18. The other findings returned by us in the case of WP (C) 3432/2022 apply, *mutatis mutandis*, to the present writ petition.

19. For the reasons already adduced in respect of WP (C) 3432/2022, therefore, we allow this writ petition in the same terms.

WP (C) 4596/2022 [*Nidhi Parihar v UOI*]

20. The petitioner applied for Short Service Commission (Women) and was selected *vide* letter dated 26 November 2012 in GDOC branch, Indian Air Force. On entry, a medical examination was conducted to ascertain any pre-existing disease; none was found.

21. The petitioner was issued joining instructions *vide* letter dated 19 June 2013 and was selected for 43 SSC(W) Course as a Short Service Commission Officer in the Education branch of the Indian Air Force. Training commenced on 1 July 2013 at the Air Force Academy, Dundigal, Hyderabad.

22. During training, the petitioner was admitted to 14 AFH with complaints of loss of consciousness following micturition. On 28 March 2014, she was transferred to CHAF, Bangalore for review and neurological opinion, where it was concluded that she was unfit to undergo the stress and strain of service.

23. The petitioner was issued a Show Cause Notice dated 1 May 2014 informing her that she would be placed in low medical category for Epilepsy and invalidated out of service on medical grounds.

24. An Invalid Medical Board thereafter assessed her disability at 20% for life, opining that the disability was neither attributable to nor aggravated by service. She suffered from the disability after completion of 8 months of training.

25. Vide letter dated 9 July 2014, the petitioner was terminated from service. By application dated 17 December 2020, she sought shelter employment, which was rejected by respondents vide letter dated 25 March 2021, stating that she was not entitled to disability pension or shelter appointment since the disability was neither attributable to nor aggravated by service.

26. The petitioner also lodged an online grievance on the Public Grievance Portal on 3 September 2020 for disability pension, which was rejected vide reply dated 6 April 2021. Aggrieved by denial of disability pension/Ex Gratia disability award, the present writ petition has been instituted.

27. Aggrieved thereby, the petitioner has approached this Court.

28. We regret our inability to grant relief in this case. Here, there is a subjective difference, in as much as the certificate of the Doctor on the basis of which who had examined the petitioner specifically states that the petitioner had a history of episodes of seizure during childhood. As such, no fault can be found with the decision of the respondents in refusing to treat the seizure as attributable to or aggravated by military training.

29. We regret, therefore, that we cannot grant relief in this case.

30. The writ petition is dismissed.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 27, 2025*/aky*