



2025:DHC:2418-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3995/2025, CM APPL. 18570/2025 & CM APPL. 18571/2025

UNION OF INDIA AND ORS.Petitioners

Through: Ms. Saroj Bidawat, SPC for
UOI

versus

EX. SGT ROHIT SINGHRespondent
Through: Mr. Durgesh Kumar Sharma,
Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)
07.04.2025

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C.HARI SHANKAR, J.

1. This writ petition is directed against order dated 3 January 2024 passed by the Armed Forces Tribunal¹ in OA 1021/2019, whereby the AFT has allowed the claim of the respondent to disability pension.

2. We have recently examined the entire law relating to allowability of claim for disability pension in our judgment in *UOI v Ex Sub Gawas Anil Madso*² and have scanned through the judicial

¹ "the AFT", hereinafter

² 2025 SCC Online Del 2018





authorities on the point.

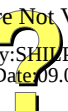
3. We do not wish to burden this decision with a reiteration of what is contained in the said judgment.

4. Suffice it to state that, generally speaking, the Supreme Court has accorded pre-eminence to the issue of whether, at the time when the cadet or candidate was enrolled in military service, he was suffering from the ailment which was detected later. In the event that the answer is in the negative, it is obvious that the disease arose during the course of military service.

5. In that event, the Supreme Court has held that the onus would be on the Release Medical Board³ to establish, positively, that the disease was not attributable to military service. This has to be established by cogent material, and cannot be left to hypothesis.

6. Rule 7 of the presently existing 2008 Rules governing entitlement to disability pension, to which, too, the decision makes reference, also makes it clear that, save and except where the claim is raised at a highly belated stage of 15 years or more since the date of disability or discharge or retirement, the officer cannot be called upon to positively prove that the ailment was attributable to military service, and the onus in that regard would be on the establishment.

³ "RMB", hereinafter





2025:DHC:2418-DB



7. The record and report of the RMB, therefore, assume primordial significance.
8. In the present case, the officer was found to be suffering from Ulcerative Colitis.
9. We have seen the report of the RMB.
10. Admittedly, the respondent joined service with the Armed Forces on 16 March 1993 and it was only on 7 March 2005, 12 years thereafter, that the respondent was first found suffering from Ulcerative Colitis.
11. The personal statement tendered by the respondent before the RMB specifically stated that he was not suffering from any disability before he joined the Armed Forces, and this statement has not been doubted either by the RMB or in the pleadings before the AFT or in the writ petition filed before us.
12. We have, therefore, adverted to the reasoning contained in the report of the RMB, for the view that the Ulcerative Colitis from which the respondent suffered was not attributable to military service. It reads thus:

PART- V

OPINION OF THE MEDICAL BOARD

1. Casual relationship of the disability with service conditions or otherwise:



2025:DHC:2418-DB



Disability	Attributable to service (Yes/No)	Aggravated By service (Yes/No)	Not Connected with Service (Yes/No)	Reason/Cause Specific conditions and period of service
Liberative Colitis (Old) ICD No: Z-09.0	No	No	Yes	An idiopathic disorder. No close time association with stress/strain /dietary compulsion of Fd/HAA/CIOPS. NANA as per chapter VI Para 61 Guide to MO (Mil Pen) 2002.

13. Para 61, to which the aforesaid opinion refers, is not on record. Nonetheless, the only reason contained in the opinion is that the disease is an idiopathic disorder, and that the respondent had no close time association with stress, strain, dietary compulsion of Field/HAA/CI Ops.

14. An idiopathic disorder, in medical terminology, is one which arises spontaneously, or owing to some unknown cause.

15. The very finding that the ulcerative colitis, from which the respondent was suffering, was idiopathic, cast an onus on the RMB to probe further and identify its cause. In the absence of any other cause being identified, the disease having its onset during military service as 12 years after the respondent had joined, the presumption would be that it is attributable to military service.

16. We have already held in our earlier decisions that the mere fact



2025:DHC:2418-DB



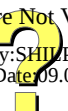
that the respondent was not placed in a position of stress cannot be a ground to hold that the disease is not attributable to military service.

17. Apart from this, the only observation is that the disease is idiopathic.

18. There is, therefore, no positive reason adduced by the RMB for its view that the Ulcerative Colitis from which the respondent suffered and from which he was admittedly not suffering when he entered military services, was not attributable to military services. No alternate cause for the said ailment has been identified in the report of the RMB.

19. We have to bear in mind that we are not sitting in an appeal over the decision of the AFT. We exercise certiorari jurisdiction. Any occasion for interference with the decision of the AFT would arise only if the case is one which smacks of patent illegality or is *ex-facie* perverse.

20. Given the fact that (i) the RMB has not identified any alternate cause for the Ulcerative Colitis suffered by the respondent, (ii) the disease was detected for the first time on 7 March 2005, which was 12 years after the respondent has joined military services and (iii) the report of the RMB says nothing beyond the fact that the disease is idiopathic, we are of the opinion that no case exists for interference with the decision of the Tribunal within the parameters of Article 226 of the Constitution of India.





2025:DHC:2418-DB



21. Accordingly, the writ petition is dismissed. The order of the Tribunal is affirmed.

22. Compliance therewith, if not done so far, be ensured within a period of four weeks from today.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 7, 2025/an/dsn

Click here to check corrigendum, if any

