



2025:DHC:4131-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 4955/2025, CM APPL. 22698/2025 & CM APPL. 22699/2025

UNION OF INDIA & ORS.Petitioners
Through: Mr. Ramjee Pandey, Advocate

versus

WO BALVIR SINGH (RETD)Respondent
Through:

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

JUDGMENT (ORAL)

% **21.04.2025**

C. HARI SHANKAR, J.

1. This writ petition assails order dated 24 January 2023, passed by the Armed Forces Tribunal¹ in OA 2677/2021, whereby the respondent's claim to disability pension has been allowed.

2. The respondent was enrolled in the Indian Air Force on 19 September 1983. He was discharged from the service in the low medical category A4G2(P) on 30 November 2019. The Release Medical Board², which convened prior thereto in February 2019, assessed the respondent as suffering from primary hypertension, of

¹ "AFT", hereinafter

² "RMB" hereinafter



which the degree of disability was assessed at 30%.

3. The respondent applied for grant of disability pension. His application was rejected on the ground that the RMB had found the disabilities from which the respondent was suffering not to be attributable to or aggravated by military service.

4. Aggrieved thereby, and pressing his claim for disability pension qua the primary hypertension from which he was suffering, the respondent approached the AFT by way of OA 2677/2021.

5. By judgment dated 24 January 2023, the AFT has allowed the respondent's claim.

6. Regrettably, the present writ petition has been filed with an application seeking stay of operation of the impugned order passed by the AFT. The petition has been filed nearly two years after the AFT has passed the impugned order. While the petition is liable to be dismissed even on the ground of delay and laches, we have nonetheless examined the matter on merit, as we had taken a view in similar matter in our judgment in *UOI v Ex Sub Gawas Anil Madso*³.

7. We have gone through the record of the RMB, which reveals following:

(i) Part-I of the record acknowledges the fact that the

³ 2025 SCC OnLine Del 2018



respondent had served the Air Force for 35 years and 5 months, before he was invalidated on medical grounds.

(ii) Admittedly, the respondent was detected as suffering from primary hypertension only in June 2016.

(iii) In the Personal Statement of the respondent, which forms part of the RMB proceedings, the respondent had answered, in response to the query as to whether he was suffering from any disability before joining the armed forces, in the negative. The correctness of this response is not questioned in the RMB or in the proceedings before the AFT or before this Court.

(iv) As such, it is an admitted position that prior to his joining the Air Force, the respondent was not suffering from primary hypertension.

(v) Insofar as the casual link between the primary hypertension from which the respondent was found to have been suffering, and the military service undergone by him is concerned, the opinion of the RMB merely laconically states thus:

“Onset of disability in peace area. No close time association with Field/HAA/CI Ops. There is no delay in diagnosis/treatment, hence not connected with service vide Para 43 of GMO 2008 (Mil pension)”

8. We have already examined para 43 of Chapter VI of the 208



Regulations in our decision in *UOI v Binod Kumar Sah*⁴ from which we may extract the following paragraphs:

12. Para 43 of the Chapter VI of the GMO 2008, vivisected into its individual components, specifies that, while dealing with hypertension,

(i) the RMB is required to determine whether the hypertension is primary or secondary,

(ii) if the hypertension is secondary, entitlement consideration should be directed to the underlying disease process,

(iii) where disablement for essential hypertension appears to have arisen to, or become worse in, service, it has to be considered whether service compulsion caused aggravation,

(iv) in cases where the disease has been reported after long and frequent spells of service in Field/HAA/Active Operational Areas, the case could be explained by variable response exhibited by different individuals to stressful situations and

(v) primary hypertension would be considered aggravated if it occurred while the officer was serving in field areas, HAA, CIOPS areas or prolonged afloat service.

9. Apart from this, there is no finding by the RMB to the effect that the primary hypertension from which the respondent was suffering was not attributable to the military service undergone by him.

10. We have also seen the opinion of the Medical Specialist who had examined the respondent before the RMB was convened. We may reproduce the said opinion, to the extent relevant, thus:

⁴ 2025 SCC OnLine Del 2355



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PART-I
CLINICAL ASSESSMENT

(All relevant data required to arrive at the diagnosis and assessment of progression of the physical status of the patient to be entered)

History:

- a. Location of Onset - Peace / Field / High Altitude Area / CI Ops - Bangalore
- b. Date and time of onset - Jun 2016
- c. Relevant History –

A case of a/m disability due for RMB. Asymptomatic & requires medication

PART-IV
RECOMMENDATIONS

1. Medical classification recommended:
 - (a) Medical Classification: A4G2 (P) for Primary Hypertension
 - (b) Disability profile: fit for release from service in same medical category
2. Medical recommendations and employability restrictions as per code (if applicable) functional status of the individual, if any, with justification:
3. Any other advice (with justification)

11. We find that, even in the opinion of the specialist, who had examined the respondent, there is no observation that the primary hypertension from which the respondent was suffering was not attributable to military service.

12. We have also observed, in our decision in **Gawas Anil Madso** that, in terms of Rule 7 of the applicable Entitlement Rules, the onus is on the RMB to prove positively that the ailment from which the officer was found to be suffering, if it was not in existence when he



inducted into service, was not attributable to military service. This would necessarily require the RMB to find the actual causative factor which was responsible for the ailment. No such attempt has been made by the RMB in the present case.

13. The AFT has correctly noted that, in the judgment in ***Dharamvir Singh v UOI***⁵, the Supreme Court has observed that the stresses and strains suffered by a person in military service, especially one who has been in military service for over three decades, is likely to result in situations such as hypertension. In the absence of any other causative factor being identified by the RMB, we cannot sustain the decision of the RMB that hypertension was not attributable to or aggravated by the military services.

14. Besides, we are exercising jurisdiction under Article 226 of the Constitution of India. We are not sitting in appeal over the decision of the AFT. Unless the AFT has acted on considerations which cannot subscribe to the law, no case for interference can be said to be made out.

15. We also find the case to be fully covered by our decision in ***Gawas Anil Madso***.

16. Accordingly, for the aforesaid reasons, the writ petition is dismissed in *limine*.

⁵ (2013) 7 SCC 316



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17. Compliance with the order of the Tribunal if not effected so far be ensured within a period of four weeks from today.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 21, 2025/yg

Click here to check corrigendum, if any