



2025:DHC:2451-DB



\$~1 (Spl. Bench)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 08.04.2025**

+ W.P.(C) 5843/2024 & CM APPL. 24165/2024

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr.Sushil Kumar Pandey, SPC
with Mr.Vaibhav Soni, Advs.
Major Anish Muralidhar, Army

versus

NK NANAK CHAND RETD

.....Respondent

Through: Mr.U. S. Maurya and Mr.S. S.
Maurya, Advs.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioners, challenging the Order dated 06.01.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application ('O.A.') No. 784/2022, titled *Nk Nanak Chand v. Union of India and Ors.*, allowing the said O.A. filed by the respondent herein with the following direction:-

"7. The O.A. is allowed directing the respondents to grant disability element of pension to the applicant with effect from the date of his discharge i.e. 30.06.2020. He shall also be granted the benefit of broad banding of his disability pension from 30% to 50% for life. The arrears shall be paid to the applicant within four months from the date of receipt of a copy of this order, failing which the arrears would carry interest @ 6% per annum till actual date of payment."

2. The learned counsel for the petitioners submits that the learned Tribunal has simply relied upon the Judgment of the Supreme Court in



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Dharamvir Singh v. Union of India & Ors., (2013) 7 SCC 316, to allow the O.A. filed by the respondent herein without appreciating the peculiar facts of the present case and especially the fact that the Release Medical Board ('RMB') had opined that the disability of Primary Hypertension, suffered by the respondent, was neither attributable nor aggravated by service.

3. He submits that hypertension is a lifestyle disease and has no connection with service conditions. He submits that the opinion of the RMB could not have been brushed aside in such a casual manner by the learned Tribunal.

4. On the other hand, the learned counsel for the respondent has submitted that in the Re-categorization Board Proceedings of 23.12.2015 and, later of 02.01.2018, the Medical Boards had opined that the disability of Primary Hypertension suffered by the respondent was aggravated by service conditions as he was serving in a CI-Ops area. He submits that the RMB, however, on an incorrect basis that the area of Tezpur, where the respondent was posted, is a peace area, declared the disability suffered by the respondent as neither being aggravated nor attributed to service.

5. He submits that the learned Tribunal has, therefore, rightly granted the disability element of pension to the respondent.

6. We have considered the submissions made by the learned counsels for the parties.

7. It is not disputed that the Re-categorization Medical Board proceedings dated 23.12.2015, and a Medical Board proceedings dated 02.01.2018, have come to a unanimous opinion that the



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disability of Primary Hypertension suffered by the respondent was aggravated by service conditions, as he was serving in CI-Ops area.

8. By the Order dated 16.12.2024, we had called upon the learned counsel for the petitioners to seek clarification whether Tezpur, where the respondent was posted when the onset of his disability was noticed, was a peace area, as noted by the RMB, or a CI-Ops area, as noted by the Re-categorization Medical Board and the Medical Board proceedings, referred to hereinabove.

9. Today, it has been confirmed to us that Tezpur is declared as a counter insurgency operation in peace area as per Notification No.04C/06/2016 dated 25.07.2016.

10. We, therefore, find that the RMB has placed reliance only on Tezpur being a peace area, while ignoring that it is also a CI-Ops area, which was taken specific note of by the Re-categorization Medical Board and the Medical Board Proceedings referred to hereinabove, while finding the disability suffered by the respondent to be aggravated by service.

11. In view of the above, we find no merit in the present petition. The same is accordingly, dismissed with costs of Rs.15,000/- to be paid by the petitioners to the respondent. The pending application is also disposed of as having been rendered infructuous.

NAVIN CHAWLA, J

SHALINDER KAUR, J

APRIL 8, 2025/sg/SJ

Click here to check corrigendum, if any