



2025:DHC:726-DB



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

Date of Decision: 06.02.2025

+ W.P.(C) 7064/2024, CM APPL. 29450/2024

UNION OF INDIA AND ORS.Petitioners

Through: Mr. Ripu Daman Bhardwaj,
CGSC with Mr. Amit Kumar
Rana, Adv.
Major Anish Muralidhar, Army

versus

COL. PERGAT SINGHRespondent

Through: Mr. Anil Kumar Srivastava,
Adv. along with Ms. Srishti,
Adv.

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 20.03.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'AFT') in Original Application ('O.A.') No. 214/2019 titled **Col. Pergat Singh (Retd.) vs. Union of India & Ors**, whereby the O.A. filed by the respondent herein has been allowed with the following directions:

"5. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is entitled for disability element of pension in respect of disability 'Hypertension'. Accordingly, we allow this application holding that the applicant is



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*entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of **Union of India Vs. Ram Avtar** (Civil Appeal No. 418/2012), decided on 10.12.2014."*

2. The learned counsel for the petitioners submits that the learned AFT has erred in allowing the O.A. filed by the respondent by merely relying upon the judgment of the Supreme Court in **Dharamvir Singh vs. Union of India & Ors.**, (2013) 7 SCC 316. He submits that the learned AFT failed to appreciate that the respondent was not only suffering from 'Primary Hypertension' but also from 'Obesity'. He submits that 'Obesity' cannot be said to be attributable to the conditions of service, so as to qualify for being categorized as either attributable to or aggravated by service for the purpose of granting disability pension. He submits that hypertension is a consequence of obesity and, therefore, it cannot be considered to be either attributable to or aggravated by service.

3. On the other hand, the learned counsel for the respondent has drawn our attention to the Medical Categorization Proceedings dated 14.09.2012, 19.04.2013, and 20.04.2015, to submit that though the condition of 'Primary Hypertension' was discovered when the respondent was posted in a peace station, the Medical Board still considered it to be aggravated by service condition as per Paragraph 43 of Chapter VI of Guide to Medical Officers, 2008. He submits that the Release Medical Board, however, in its report dated 15.03.2018, rejected the said claim of the respondent, only on the observation that



the onset of the disability was in a peace station, without looking into the service profile of the respondent. He submits that the learned AFT has, therefore, rightly set aside the said findings of the Release Medical Board and directed the petitioners to grant disability pension to the respondent for the disability of 'Primary Hypertension'.

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

5. The Categorization Medical Board dated 14.09.2012 took note of the fact that the 'Primary Hypertension' in the respondent was discovered on 04.09.2012 when the respondent was posted at Kolkata, which is a peace station. However, taking into account his service profile and the fact that one year prior to the onset of the said disability the respondent served in a Field/C.I.Ops area, that is, Counter Insurgency Operations area, the Medical Board opined that the said disability was aggravated by service. For 'Obesity', which was also discovered at the same time, the Medical Board opined that the same was a lifestyle disease, therefore, not related to any service factor, and it was held to be neither attributable to nor aggravated by service.

6. We may reproduce the findings of the Medical Board as under:

<i>“15. Details of present and previous disabilities</i>				
<i>Ser. No.</i>	<i>Disabilities (Principal)</i>	<i>Date/Place of origin</i>	<i>Previous category with date</i>	<i>Next Med category due</i>
<i>(a)</i>	<i>PRIMARY HYPERTENSION, I-10.0</i>	<i>04 Sept 2012 at Kolkata</i>	<i>Freshly detected</i>	
<i>(b)</i>	<i>OBESITY, E 66.0</i>			
<i>16. Specialist Opinion. Summary & Opinion of Brig A Banerji, SM,</i>				



<i>Consultant (Medicine & Cardiology) of CH(EC) Kolkata dt 09 Sep 12 is attached.</i>	
<i>17. Is the disability attributable to Service? (Y/N), if so, please explain?</i>	<i>For dis(a)- Onset in peace. However within one year prior to onset the offr served in Fd/CI.OPs area as per service profile produced. Hence aggravation is considered as per para 43 of Chapter VI GMO (Mil pen 2002) revised in 2008</i>
<i>18. If not directly attributable to service, was it aggravated by service? (Y/N), if so, please explain?</i>	<i>For dis (b)- Life style metabolic disease not related to any service factor. Hence considered NANA.”</i>

7. The same opinion was reiterated in the Medical Categorization Boards dated 19.04.2013 and 20.04.2015, to which our attention has been drawn. They are not being reproduced herein for the sake of brevity.

8. The Release Medical Board, however, only on the finding that the onset of the disability of ‘Primary Hypertension’ was noticed while the respondent was posted in a peace area, observed that the same cannot be said to be attributable to or aggravated by service conditions. The Release Medical Board does not seem to have taken into account the earlier Categorization Medical Board Proceedings and neither has it given any reason for disagreeing with the same.

9. The learned counsel for the petitioners submits that prior to the final opinion of the Release Medical Board, an opinion of the expert was also taken, who opined that as the respondent is also suffering from ‘Obesity’, the ‘Primary Hypertension’ suffered by him is not attributable to the service conditions.



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10. We, however, are not informed whether the said expert was informed of the prior Categorization Medical Board Proceedings and/or the posting profile of the respondent. In any case, the Release Medical Board does not give any reasons for disagreeing with the consistent view of the Categorization Medical Board.

11. Keeping in view the above, we find no infirmity in the Impugned Order which has directed the petitioners to grant the disability element of pension to the respondent for the disability of 'Primary Hypertension' suffered by him.

12. Accordingly, the writ petition is dismissed.

13. As the petitioners have not complied with the Order dated 20.03.2023 passed by the learned AFT, and have instead filed the present petition almost a year after the passing of the said order, the petitioners shall remain liable to pay to the respondent the interest as was directed by the learned AFT, and shall also pay to the respondent costs of Rs. 25,000/-.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 6, 2025
SU/FRK/SJ

Click here to check corrigendum, if any