



\$~28

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

+ **W.P.(C) 10278/2024**

WG CDR ESWARA RAGHURAJ (RETD)Petitioner

Through: Ms. Deepika Sheoran, Mr.
Baljeet Singh and Mr. Abhishek Gahlyan,
Advocates.

versus

UNION OF INDIA AND OTHERSRespondents

Through: Mr. Premtosh Mishra, CGSC
with Mr. Prarabdh Tiwari, Mr. Anurag Tiwari
and Mr. Arnav Mittal, Advocates.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

%

01.12.2025

OM PRAKASH SHUKLA, J.

1. This writ petition is filed under Article 226 of the Constitution of India assailing the order dated 15.04.2024 passed by the Armed Forces Tribunal¹ in OA 1909/2019, whereby the petitioner's application seeking grant of disability pension on account of primary hypertension @ 30% was dismissed.

2. The factual background leading to the present petition is that the petitioner joined the Indian Air Force on 21.12.1996 and sought

¹ "the AFT", hereinafter



premature retirement from service on 30.04.2018. At the time of the retirement, the petitioner was released in low medical category and the Release Medical Board² *vide* its report dated 18.04.2018, ascertained that petitioner was suffering from primary hypertension at 30%, which was not attributed to or held to be aggravated by military service. Further, the net qualifying percentage for disability was assessed as *nil* for life.

3. Thereafter, the petitioner, purportedly, sought disability pension, however, his claim came to be rejected by the competent authority *vide* letter dated 23.08.2018. It is also made out from the record that as per the OA, the petitioner had sent a Legal Notice/Representation dated 12.09.2019 challenging the rejection of his claim. This representation was rejected by the respondents *vide* letter dated 15.10.2019 on the ground that the petitioner was not entitled to the disability element of pension.

4. Being adversely affected by the decision of the respondents, the petitioner preferred OA No. 1909/2019 before the AFT.

5. The AFT, relying on the RMB, observed that the petitioner was overweight by 12 kg, i.e., 19%, the ideal weight being 63 kg. Further, the AFT carved out a causal link between obesity and primary hypertension to conclude that the petitioner being overweight could be a “contributory factor” to the disability suffered by him.

² “RMB”, hereinafter



6. Aggrieved thereby, the petitioner approached this Court by way of this present writ petition.

7. At the outset, we may note that the law governing disability pension is crystallised in *UOI v. Ex Sub Gawas Anil Madso*³, *Dharamvir Singh v. Union of India*⁴, *Bijender Singh v. Union of India*⁵ and *Union of India v. Balbir Singh*⁶.

8. The decision in *Gawas Anil Madso*, authored by one of us (C. Hari Shankar, J.), squarely covers the present matter whereby it was held that the RMB is mandated to identify the cause for ailment in cases where applicant was not suffering from the same at the time of entry into service in order to justify that the ailment is not attributable to military service.

9. As per *Dharamvir Singh*, in the absence of any evidence to establish that the petitioner was suffering from the disability in question at the time of entrance into service, it shall be presumed that the petitioner was in sound physical condition at that time and the deterioration occurred subsequently during service.

10. Further, it has been succinctly articulated by this Bench in *Dropadi Tripathi v. UOI & Ors.*⁷ that:

“12. In all these decisions, the common considerations which are to govern any plea for disability pension now stand authoritatively

³ 2025 SCC OnLine Del 2018

⁴ (2013) 7 SCC 316

⁵ 2025 SCC OnLine SC 895

⁶ Judgment dated 1 July 2025 in WP (C) 140/2024

⁷ Judgment dated 26 September 2025 in WP(C) 10154/2025



crystalised. The Court is first to see whether, at the time of induction into military service, any note had been entered to the effect that the candidate was suffering from the disability or ailment from which she, or he, was later found to be suffering and on account of which the candidate was invalided or released out of service. If not, the Court has to see whether there is any noting that stage to the effect that the ailment was one which could not have been detected or whether the absence of noting was on account of any concealment of information by the candidate by herself/himself. If these considerations do not apply, there would be a presumption that the ailment or disability is attributable to military service, unless the RMB or Specialist who examined the officer attributes the ailment or disability to some other cause.

21. It is well known that every obese person does not suffer from hypertension, and every person who suffers from hypertension is not necessarily obese.”

(emphasis supplied)

11. Additionally, it is to be borne in mind that as per Rule 9 of Entitlement Rules for Casualty Pensionary Awards, 1982, the claimant shall not bear the onus of proof of entitlement.

12. In view of the foregoing legal position, we find that a claim for disability pension cannot be rejected outrightly without an explicit finding of the RMB that the disability suffered by the petitioner is attributable to some other cause than the military service.

13. The petitioner in the present case seeks the disability element of pension on account of primary hypertension assessed at 30% which, as contended on behalf of the petitioner, was not present at the time of joining the service.

14. With regard to the disability, the RMB recorded that the petitioner suffered from an old case of primary hypertension since June



2025:DH:10767-08



2016 which was deemed to not be attributable or aggravated by service. The RMB did not record any observation or finding that the said disability was attributable to any other cause, as follows:

Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	Not Connected with service (Y/N)	Reason/Cause/Specific condition and period in service
Primary Hypertension (old) 1-10.0, Z09.0	NO	NO	YES	Onset at peace station New Delhi. No delay in diagnosis. There is no close time association of Field/HAA/CI ops service. Para 43 of Chapter VI of GMO (MP) 2008 amended refers.

15. Further, the opinion of the Specialist dated 16.04.2018 notes the following:

2. Did the Disability exist before entering service? (Y/N could be) NO
3. In case the disability existed at the time of entry, is it possible that it could not be detected during the routine medical examination carried out at the time of the entry? NO
4. In case of disability awarded Aggravation, whether the effects of such aggravation still persists? (If Yes, whether the effects of aggravation will persist for material period) NO
5. (a) Was the disability attributable to individual's own negligence or misconduct? If Yes, in what way? NO
(b) if not attributable, was it aggravated by negligence or misconduct? If so, in what way and to what percentage of the total disablement? NO...

16. In view of the requirement of a specific determination of an alternate cause in **Gawas Anil Madso**, we observe that, in addition to the RMB, the opinion of the specialist also does not record any specific



causal link between the primary hypertension suffered by the petitioner and obesity. The opinion further states that the petitioner himself was not responsible for the said disability. Thus, while the disability has not been attributed to the service, it has also not been attributed to any other cause either by the RMB or the specialist.

17. Further, the AFT independently drew an unsubstantiated logical corollary between obesity and primary hypertension, even though the RMB or the Specialist expressed no such opinion. We find that this inference arrived at by the AFT is inconsistent with the view taken in *Dropadi Tripathi*.

18. In light of the above discussion, we find that the impugned order passed by the Tribunal is inconsistent with the established legal position, particularly in view of the sheer absence of any causal link established by the RMB or the specialist.

19. Consequently, as per the decisions in *Gawas Anil Madso*, *Dropadi Tripathi*, *Dharamvir Singh*, *Bijender Singh* and *Balbir Singh*, the petitioner, in our considered opinion, is entitled to disability pension.

20. Accordingly, the impugned order dated 15.04.2024 passed by the AFT in OA No. 1909/2019 is quashed and set aside. The respondents are directed to grant the disability element of pension to the petitioner from the date of his release from service i.e., w.e.f. 30.04.2018, for life. The arrears shall carry interest at the rate of 12%



p.a. till payment. Further, the petitioner is entitled to rounding off of the disability pension to 50% as per *Union of India v. Ram Avtar*⁸ from the date of the said decision, i.e., from 10.12.2014.

21. The present writ petition is allowed in abovementioned terms.

OM PRAKASH SHUKLA, J

C.HARI SHANKAR, J

DECEMBER 1, 2025/AT

⁸ 2014 SCC OnLine SC 1761