



2025:DHC:6409-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11442/2025, CM APPLs. 46799/2025 & 46800/2025**
UNION OF INDIA & ORS.Petitioners

Through: Mr. Shouryendu Ray, Sr. PC
with Mr. Yashendra Singhwal, Adv. for UOI
with Major Anish Muralidhar (Army)

versus

COL MUKESH KUMAR KHATTAR (RETD)Respondent
Through: Mr. K.R. Verma and Mr.
Narula, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **01.08.2025**

C. HARI SHANKAR, J.

1. This writ petition assails order dated 18 March 2024 passed by the Armed Forces Tribunal¹ in OA 1144/2019².

2. We are inundated, day in and day out, with writ petitions challenging orders passed by the AFT allowing claims of disability pension by officers who have been detected as suffering from ailments and disabilities during their military service. In nearly every such case, the recommendation of the Release Medical Board/Review Medical Board³ is to the effect that the element or disability from

¹ "AFT", hereinafter

² Col Mukesh Kumar Khattar (Retd) v UOI and Ors.

³ "RMB", hereinafter



which the officer was found to be suffering is not attributable to or aggravated by military service. We have, after examining the entire case law in that regard, laid down the applicable principles in our decision in *UOI v Ex Sub Gawas Anil Madso*⁴, broadly to the effect that, if the officer was not suffering from the said disability at the time he joined service, and the disability was found several years after he had been in military service, the disability would be deemed to be attributable to military service. Else, the Medical Board would have to assign specific reasons as to why the disability or ailment is not to be regarded as attributable to or aggravated by military service. Some other contributing factor would, therefore, have to be specifically identified. We have also pointed out that mere recitals that the officer was serving in a peace area or that he was not in contact with other affected persons etc. would not suffice as reasons in that regard.

3. To our recollection, this is the first case in which the matter has been carried to the Court against the decision of the AFT even though the RMB's report is in favour of the officer. The officer suffers from Bipolar Affective Disorder. He was subjected to a psychiatric evaluation which opined that the disorder was not attributable to or aggravated by military service. This opinion/recommendation was, however, thereafter examined by the RMB which consisted of three Senior Medical Officers and opined thus:

“After being diagnosed with specific restrictions of employability, the individual served in such service environment which worsened his disease because of stress & strain of service involved in CI Ops area.

⁴ 2025 SCC OnLine Del 2018



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Ref Para 54(d) Ch VI of GMO 2008.”

4. Para 54(d) of Chapter VI of GMO 2008, we may note, opines that a disease as not attributable to or aggravated by military service if the officer *has not, inter alia*, served in a CI Ops area.

5. Against the column “aggravated by service (Y/N)”, the RMB has entered “Y”. As such, the opinion of the RMB is that the ailment from which the respondent was suffering, even if not attributable to service, had been aggravated by service as he was posted in areas which aggravated his condition despite specific advisories to the contrary.

6. The AFT, which was petitioned by the respondent has noted the opinion of the RMB and has, therefore, allowed the respondent’s OA.

7. Before us, Mr. Shouryendu Ray, learned Senior Panel Counsel for the petitioners, has once again sought to place reliance on the recommendatory opinion of the Medical Specialist who had examined the respondent.

8. Needless to say, that opinion can be of no value to the petitioners as the opinion was considered by the RMB which came to a finding that the respondent’s condition had been aggravated by military service.

9. In that view of the matter, we find no reason to interfere with the impugned order passed by the AFT which is accordingly upheld in



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its entirety.

10. The writ petition is dismissed in *limine*.

11. Compliance with the impugned judgement of the AFT, if not already ensured, be ensured within a period of four weeks from today.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 1, 2025/aky