



2025:DHC:10868-DB



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

+ W.P.(C) 18384/2025, CM APPL. 76116/2025 & CM APPL.
76117/2025

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Kameshwar Nath Mishra,
SPC with Mr. Shubhashish Roy, Ms. Vidya
Mishra, Advs.

versus

GP CAPT AJAI KUMAR AGNIHOTRI (RETD.) ..Respondent

Through: Mr. Nawneet Krishna Mishra,
Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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03.12.2025

C. HARI SHANKAR, J.

1. This is a writ petition filed by the Union of India assailing order dated 8 April 2024 passed by the AFT allowing a claim of disability pension.

2. This Bench has passed as many as 355 orders allowing claims for disability pension, of which 15 orders cover cases of CAD.

3. In the present case, the onset of CAD from which the respondent was found to suffer was 32 years after he had joined military service. It is not in dispute that, at the time when the respondent joined service, he was not recorded as suffering from any

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cardiac ailment.

4. The reasons adduced by the Release Medical Board¹ for treating the CAD from which the respondent was found to be suffering not to be attributable to or aggravated by military service, read thus:

“CAD STE IWMI SVD Normal LV Function PAMI STENTING DES(OLD): Onset of disability: 16 Apr 2012 at New Delhi, in peace area. There is no delay in diagnosis. Neither attributable nor aggravated by service. No, as per Charter of duties dated 08 Mar 2013.”

5. The only reasons provided by the RMB are, therefore, that (i) the onset of disability was while the respondent was posted in a peace area and (ii) there was no delay in diagnosis. Besides, this, there is a reference to the Charter of duties of the respondent, without any elucidation as to how it is at all relevant.

6. The Supreme Court has already held, in *Dharamvir Singh v. Union of India*² and *Bijender Singh v. Union of India*³ that such ailments can, in the case of persons in military service, occur even when they are posted in peace areas owing to the stress and strain of service. These decisions have clearly held that, in all such cases, the RMB is required to identify an alternate cause for the disability, if it is not attributable to or aggravated by military service. Merely stating that the onset of disability was when the officer was posted in the peace area is entirely insufficient.

¹ “RMB” hereinafter

² (2013) 7 SCC 316

³ 2025 SCC OnLine SC 895



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7. We are also unable to understand why the RMB has stated that there is no delay in diagnosis. We do not understand the connection between delay in diagnosis and the issue of whether the CAD from which the respondent was suffering was attributable to or aggravated by military service. If anything, the fact that there was no delay in diagnosis would seem to confirm that the onset of the CAD was proximate to the date when it was diagnosed, which would in turn indicate that it was attributable to the military service undergone by the respondent.

8. We have also seen the record of the specialist who has examined the respondent. The specialist, too, does not state that the CAD from which the respondent was suffering was not attributable to or aggravated by military service. Nor is any alternate cause for the CAD identified.

9. Learned Counsel for the petitioner submits that (i) the decision of the RMB is final and (ii) the respondent has not challenged the decision of the RMB except by way of an OA which was filed five years after he had retired.

10. We find the submission truly surprising. It goes without saying that there can be no foreclosure of judicial review against a decision of the petitioner, or the findings of the RMB.

11. The respondent has in fact challenged the decision of the RMB before the AFT. The AFT has also factored in the aspect of delay by reference to the judgment of the Supreme Court in *Union of India v.*



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Tarsem Singh⁴.

12. The submissions of learned Counsel for the petitioner are, therefore, completely devoid of merit and are accordingly rejected.

13. We are not sitting in appeal over the decision of the AFT. We are exercising *certiorari* jurisdiction, which is bound by the following enunciation of law in *Syed Yakoob v. K.S. Radhakrishnan*⁵:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be*

⁴ 2008 (8) SCC 648

⁵ AIR 1964 SC 477



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*challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide **Hari Vishnu Kamath v. Syed Ahmad Ishaque**⁶, **Nagandra Nath Bora v. Commissioner of Hills Division and Appeals Assam**⁷ and **Kaushalya Devi v. Bachittar Singh**⁸).*

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. *What can be corrected by a writ has to be an error of law; hut it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have*

⁶ (1954) 2 SCC 881

⁷ AIR 1958 SC 398

⁸ AIR 1960 SC 1168



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been misconstrued or contravened.”

(Emphasis supplied)

14. Within the parameters of the certiorari jurisdiction, we do not find any cause to interfere with the impugned judgment of the AFT, which is affirmed in its entirety.

15. Accordingly, the present writ petition is dismissed in *limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 3, 2025

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