



2025:DHC:11040-DB



\$~10

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 18498/2025, CM APPL. 76721/2025 & CM APPL.
76722/2025

UNION OF INDIA & ORS.Petitioners

Through: Mr. Srivats Kaushal, SPC

versus

WARRANT OFFICER A. K.
SINGH RETD. 15211Respondent

Through:

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

JUDGMENT (ORAL)

% **05.12.2025**

C. HARI SHANKAR, J.

1. This petition challenges judgment dated 6 November 2023 passed by the Armed Forces Tribunal¹, whereby the respondent's claim for disability pension has been allowed. We find, from the Index accompanying the petition, that the Index itself is dated 18 November 2025. In other words, there is an inordinate and unexplained delay of at least two years in filing this petition. Following the judgment of the Supreme Court in *Thirunagalingam v. R. Lingeswaran*², this writ petition is liable to be dismissed even on the ground of unconscionable and unexplained delay and laches.

¹ "AFT" hereinafter
² 2025 SCC OnLine SC 1093



2. Nonetheless, we also examined the petition on merits, as it is fully covered by earlier orders passed by us.

3. The respondent was found to suffer from Coronary Artery Disease³ and Diabetes Mellitus Type-II⁴. The respondent was serving with the Army. The onset of the ailment was 37 years after the respondent had joined service. The report of the Release Medical Board⁵ which released him on account of disability specifically states that he was not suffering from any disability at the time when he was enrolled in service. In other words, it is an admitted position that the disability arose when he was in service.

4. The report of the RMB certifies that the respondent was suffering from 50% disability on account of CAD and 20% disability on account of DM-II, both of which were lifelong.

5. The reasoning provided by the RMB regarding the ailment as neither attributable to, nor aggravated by, service, reads thus:

“(i) CAD-SVD, IWMI-PAMI TO RCA (DES) (ICD No-I24.8) and DM TYPE-2 (ICD No-E-11): Onset of disability: 24 Jul 16 for ID-1 and ID-2, both at peace area New Delhi. ID-1 Is neither attributable nor Aggravated by service as per charter of duties dated 16 Nov 2017 and ID-2 is not attributable to service, as on scrutiny of documents it is found that there is no close time relationship to service out of infection, trauma, and post surgery and post drug therapy as para 26 of chapter VI of GMO (Mil Pen)-2008 and not aggravated by service as there is no delay in diagnosis and treatment worsening the conditions.”

³ “CAD” hereinafter

⁴ “DM-II” hereinafter

⁵ “RMB” hereinafter



6. Thus, we find that the only reasons provided are that
- (i) the CAD was not attributable to or aggravated by service as per the charter of duties of the petitioners,
 - (ii) the DM-II was not attributable to service as
 - (a) there was no close time relationship to service out of infection, trauma, post surgery or post drug therapy,
 - (b) there was no delay in diagnosis and
 - (c) there was no delay in treatment whereby the condition of the respondent worsened.
7. We are completely at a loss to understand how these considerations are at all relevant in deciding whether the ailment was attributable to or aggravated by service.
8. The reference to the charter of duties is neither here nor there, as there is no explanation as to how the charter of duties of the petitioners was a consideration to decide or indicate that the CAD from which the respondent was suffering was not attributable to or aggravated by service.
9. We also do not understand how “close time relationship to service out of infection, trauma, post surgery and post drug therapy” can be indicators as to whether diabetes was attributable to or aggravated by service. Similarly, delay in diagnosis and treatment are also irrelevant considerations.
10. The fact of the matter is that there is no causative factor, other



than military service, to which the RMB has been able to attribute either the CAD or the Diabetes from which the respondent was suffering.

11. We have also seen the report of the medical specialist who had examined the respondent. The said report, too, does not attribute the ailments of the respondent to any cause other than military service.

12. The position in law in this regard is perfectly clear. The Supreme Court has held, in *Dharamvir Singh v. Union of India*⁶ and *Bijender Singh v. Union of India*⁷, that, in such cases, where the officer is found to suffer from ailments much after he has joined service, it is incumbent on the medical board to identify the cause for the ailment other than military service, if that is what it holds. In the absence of attributability or aggravation of the ailment to any other factor, there is a presumption that, if the officer was not suffering from disease at the time when he joined service, it is either attributable to or aggravated by service.

13. Following these decisions, we have disposed of at least 15 matters which deal with CAD and 72 matters which deal with DM-II in which, in identical facts, we have upheld the relief granted by the AFT.

14. Though the UOI has challenged a few of our orders before the Supreme Court, we are not informed of any interdictory order having

⁶ (2013) 7 SCC 316

⁷ 2025 SCC OnLine SC 895



been passed with respect to any of our judgments which deal with CAD or with DM-II.

15. In that view of the matter, even on merits, the petitioners have no case.

16. Besides, we are not sitting in appeal over the decision of the AFT. We are exercising *certiorari* jurisdiction which is restricted by the law expostulated in the following passages from the judgment of the Supreme Court in *Syed Yakoob v. K.S. Radhakrishnan*⁸.

“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 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**⁹, **Nagandra Nath Bora v. Commissioner of Hills Division and Appeals Assam**¹⁰ and **Kaushalya Devi v. Bachittar Singh**¹¹).*

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

⁹ (1954) 2 SCC 881

¹⁰ AIR 1958 SC 398

¹¹ AIR 1960 SC 1168



2025:DHC:11040-DB



nature and scope of the legal provision which is alleged to have been misconstrued or contravened.”

(Emphasis supplied)

17. Accordingly, this writ is dismissed both on the ground of unconscionable and unexplained delay and laches as well as on merits.

18. Let compliance with the impugned order be ensured within a period of six weeks from today.

19. The petition is dismissed in the aforesaid terms.

20. It is made clear that no request for extension of time to comply with the direction of the AFT would be entertained.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

DECEMBER 5, 2025/AR