

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1299 OF 2026

BASAVRAJ
GURAPPA
PATIL

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BASAVRAJ GURAPPA
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Union of India & Ors.

.. Petitioners

Vs.

Ex-NB Sub Phad Ankush Sukhdev

.. Respondent

...

Mr. Rajendraprasad P. Ojha a/w. Mr. Rakesh Dube,
Advocates for the Petitioners

None for the Respondent

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 4th FEBRUARY 2026

P.C. :

Aggrieved by the order dated 20th December 2024 in Original Application No.225 of 2023 passed by the Armed Forces Tribunal, Regional Bench, Mumbai, the Union of India, the Chief of Army Staff and other Officers have filed this writ petition.

2. In its order dated 20th December 2024, the Tribunal referred to the decisions in “*Angad Singh Titaria*”¹, “*Rajbir Singh*”² and “*Dharamvir Singh*”³ and held that the judgments of the Hon'ble Supreme Court clearly lay down that a presumption which arises in favour of the military personnel must be rebutted by the respondent-Employer. However, the learned counsel for the petitioner-Union of India submits that the respondent-military personnel approached the Court after a delay of 15 years and, therefore, the onus shall shift on him in terms of Rule 4 of the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008 (in short,

¹ *Union of India & Ors. v. Angad Singh Titaria* : (2015) 12 SCC 257

² *Union of India & Ors. v. Rajbir Singh* : (2015) 12 SCC 264

³ *Dharamvir Singh v. Union of India & Ors.* : (2013) 7 SCC 316

Entitlement Rules 2008). The learned counsel further submits that the disease detected in the respondent-military personnel is Wolff-Parkinson-White (WPW Syndrome) which is a congenital heart disease and does not fall under the accepted disease for grant of invalidity pension.

3. On the other hand, it is provided under the Guide to Medical Officers (Military Pension), 2008 that a congenital heart disease which is generally not detected at the time of recruitment shall be considered as neither attributable nor aggravated (NANA) to the military service. There is no dispute that there is a provision for grant of invalidity pension to a former military personnel after the expiry of the term of engagement. Rule 7 of the Entitlement Rules, 2008 provides that the onus of proof shall be on the claimant when the claim is raised by the former military personnel after 15 years for a specific reason. The reason indicated under Rule 7 is that in the cases where the service documents of former military personnel are destroyed after the prescribed period and it was in that sense Rule 7 provides that the onus to prove the entitlement lies on the claimant. Rule 7, however, shall not absolve the Employer of proving that the disease was not detected at the time of entry in the service for a particular reason. There is no reason forthcoming on record that this disease was not detected at the time when the respondent-military personnel entered into service under the Army. The learned counsel for the Union of India states that the guidelines of the Invalidity Medical Board would not change the statutory regime under the Entitlement Rules, 2008. In "*Rajbir Singh*", the Hon'ble Supreme Court observed that a member of the armed forces shall be considered to be in sound physical and mental health at the time of entry if there is no note appended with his medical records. In

“Angad Singh Titaria”, the Hon'ble Supreme Court observed that once the promotion on medical ground is denied, it must be assumed that the deterioration in the health of military personnel was due to service conditions. The Wolff-Parkinson White Syndrome (WPW Syndrome) was detected in the respondent-military personnel years after his entry in the service. He was downgraded with effect from 12th July 1997 but retained in service under sheltered appointment. It must, therefore, be concluded that the disease was attributable or aggravated on account of military service.

4. In view of the aforesaid observations, Writ Petition No.1299 of 2026 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]