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

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Date of Decision : 13.01.2026+ **W.P.(C) 381/2026 and CM APPL. 1838/2026**
UNION OF INDIA & ANR.

.....Petitioners

Through: Mr. Himanshu Pathak, SPC and Mr.
Chetan Sharma, Adv.

versus

EX MWO GURVINDER SINGH JITTAL

.....Respondent

Through: Mr. U.S. Maurya, Mr. S. S. Maurya
and Mr. Diwakar Singh Maurya,
Adv.**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****MANMEET PRITAM SINGH ARORA, J. (ORAL)****CM APPL. 1839/2026**

1. Allowed, subject to just exceptions.
2. The application is disposed of.

W.P.(C) 381/2026 and CM APPL. 1838/2026

1. This petition under Article 226 of the Constitution of India lays the challenge to the order dated 13.02.2024 ('impugned order') passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in Original Application ('O.A.', for short) 1033/2019 titled **Ex. MWO**



Gurvinder Singh Jittal v. Union of India and Others, wherein the respondent has been granted the benefit of the disability element of pension at 30% for Primary Hypertension, rounded off to 50% for life. The Tribunal further held that however, the arrears will be restricted to three years from the date of filing of the said O.A. or the date of applicant's retirement, whichever is lesser.

2. The facts to be noted are that the respondent was enrolled into the Indian Army on 06.07.1972 and was discharged from the services on 31.12.2011 after rendering 39 years and 79 days of regular service. The Release Medical Board ('RMB', for short) proceedings were held on 25.02.2011, wherein the Medical Board opined that the respondent has disability of Primary Hypertension at 30% for life and further assessed that the aforesaid disability was neither attributable nor aggravated ('NANA') by military service.

3. The respondent's claim for disability pension was rejected by the petitioners vide letter dated 11.05.2011 and the same was communicated to the respondent vide letter dated 24.05.2011. Therefore, the respondent approached the Tribunal by way of filing O.A. 1033/2019 praying for grant of disability element of pension. The respondent claimed before the Tribunal that the grant of disability element of the pension from 01.01.2012 was sought on the ground that the respondent had developed the disease of Primary Hypertension during the course of his service and the said disease is attributable to the military service.

4. By impugned order dated 13.02.2024, the Tribunal referred to the judgments of the Supreme Court in **Dharamvir Singh v. Union of India**



and Ors.¹, and other judgments for granting the relief as claimed by the respondent herein.

5. The only submission made by the learned counsel for the petitioners is that the reliance placed by the Tribunal on the judgment of **Dharamvir Singh v. Union of India and Ors.** (supra) is totally misplaced as in the said case, the Supreme Court was concerned with the Entitlement Rules for Casualty Pensionary Awards, 1982 ('1982 Entitlement Rules', for short), whereas the case of the respondent needs to be considered under the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 ('2008 Entitlement Rules', for short).

Learned counsel for the petitioners contend that the Tribunal has overlooked the 2008 Entitlement Rules, which governs attributability and/or aggravation and no longer permits a blanket presumption in favour of the claimant. He states in the facts of this case, the respondent was discharged on 31.12.2011 and therefore, the respondent would be governed by the 2008 Entitlement Rules. He states that the impugned order applies the presumption under the repealed 1982 Entitlement Rules, ignoring the amended regime under 2008 Entitlement Rules. He states that 2008 Entitlement Rules have done away with the general presumption to be drawn in order to ascertain the principle of '*attributable to or aggravated by military service*'.

6. We are unable to agree with the submission made by the learned counsel for the petitioners.

7. In another petition i.e., W.P.(C) 88/2026 titled **Union of India v.**

¹ 2013 (7) SCC 361



781466 Ex. SGT Krishna Kumar Dwivedi, decided by this Bench on 06.01.2026, our attention was drawn to the authoritative judgments of the coordinate Benches of this Court passed in **W.P.(C) 3545/2025** titled **Union of India v. Ex. Sub Gawas Anil Madso**² and **W.P.(C) 140/2024** titled **Union of India vs. Col. Balbir Singh (Retd.) and other connected matters**³, which have conclusively held that even under 2008 Entitlement Rules, an officer who suffers from a disease at the time of his release and applies for disability pension within 15 years from release of service, is *ordinarily* entitled to disability pension and he does not have any onus to prove the said entitlement. The 2008 Entitlement Rules, however, contemplate that in the event, the Medical Board concludes that the disease though contracted during the tenure of military service, was not attributable to or aggravated by military service, it would have to give cogent reasons; and a bald statement in the report would not be sufficient, for the military department for denying the claim of disability pension. The burden to prove the disentitlement therefore remains on the military department even under the 2008 Entitlement Rules and the aforesaid judgments emphasize on the significance of the Medical Board giving specific reasons for denial of this beneficial provision under the said Rules.

8. For reference we also note that the Supreme Court in its recent opinion in the case of **Bijender Singh vs. Union of India and Others**⁴, wherein at paragraphs 45.1, 46 and 47, has held as under:

“45.1. Thus, this Court held that essence of the Rules is that a member of the armed forces is presumed to be in sound physical and mental

² 2025: DHC: 2021-DB

³ 2025: DHC: 5082-DB

⁴ 2025 SCC OnLine SC 895



condition at the time of his entry into the service if there is no note or record to the contrary made at the time of such entry. In the event of subsequent discharge from service on medical ground, any deterioration in health would be presumed to be due to military service. The burden would be on the employer to rebut the presumption that the disability suffered by the member was neither attributable to nor aggravated by military service. If the Medical Board is of the opinion that the disease suffered by the member could not have been detected at the time of entry into service, the Medical Board has to give reasons for saying so. This Court highlighted that the provision for payment of disability pension is a beneficial one which ought to be interpreted liberally. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that upon proper physical and other tests, the member was found fit to serve in the army would give rise to a presumption that he was disease free at the time of his entry into service. For the employer to say that such a disease was neither attributable to nor aggravated by military service, the least that is required to be done is to furnish reasons for taking such a view.

*46. Referring back to the impugned order dated 26.02.2016, we find that the Tribunal simply went by the remarks of the Invaliding Medical Board and Re-Survey Medical Boards to hold that since the disability of the appellant was less than 20%, he would not be entitled to the disability element of the disability pension. Tribunal did not examine the issue as to whether the disability was attributable to or aggravated by military service. In the instant case neither has it been mentioned by the Invaliding Medical Board nor by the Re-Survey Medical Boards that the disease for which the appellant was invalided out of service could not be detected at the time of entry into military service. As a matter of fact, the Invaliding Medical Board was quite categorical that no disability of the appellant existed before entering service. As would be evident from the aforesaid decisions of this Court, the law has by now crystalized that if there is no note or report of the Medical Board at the time of entry into service that the member suffered from any particular disease, the presumption would be that the member got afflicted by the said disease because of military service. **Therefore the burden of proving that the disease is not attributable to or aggravated by military service rest entirely on the employer.** Further, any disease or disability for which a member of the armed forces is invalided out of service would have to be assumed to be above 20% and attract grant of*



50% disability pension.

47. Thus having regard to the discussions made above, we are of the considered view that the impugned orders of the Tribunal are wholly unsustainable in law. That being the position, impugned orders dated 22.01.2018 and 26.02.2016 are hereby set aside. Consequently, respondents are directed to grant the disability element of disability pension to the appellant at the rate of 50% with effect from 01.01.1996 onwards for life. The arrears shall carry interest at the rate of 6% per annum till payment. The above directions shall be carried out by the respondents within three months from today.”

(Emphasis Supplied)

9. In this background of law settled vis-à-vis 2008 Entitlement Rules we have examined the facts of this case.

The Tribunal has held that the respondent is entitled to disability element of pension in respect of his disability i.e., Primary Hypertension assessed at 30% rounded off to 50% for life. The petitioners do not dispute the disability of the respondent, which is borne out from the medical record. The petitioners have only raised the issue of non-entitlement of the disability element of the pension on the ground that the Medical Board has held that the diseases are not attributable to or aggravated by military service as the onset of the disease was in peace station. The opinion rendered by the Medical Board is extracted hereinbelow:

PART Y				
1. Causal Relationship of the Disability with service conditions or otherwise				
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 ICD No I 10.0, Z 09.0	NO	NO	YES	Onset in peace and served in peace only prior to (up to 1 year) & after onset
Note: A disability "Not connected with service" would be neither Attributable nor Aggravated by service. (This is in accordance with instructions contained in "Guide to Medical Officers (Mil Pension)-2002")				

10. The respondent was enrolled in the Indian Air Force on 06.07.1972



and the disease was discovered on 06.03.2003 (after 31 years of service), during the time when the respondent was serving in peace area. There is no dispute that at the time of induction in service, the record of the officer did not contain any note to the effect that he was suffering from the said ailment. Significantly, the report records that the disease has not occurred due to any negligence by the respondent. The Medical Board has recorded that since the onset of the disability was while the respondent was posted at a peace station, thus the same is not attributable to military service. This reason of ‘onset at peace station’ has been expressly rejected by the Coordinate Bench of this Court in **Union of India v. Col. Balbir Singh (Retd.) and other connected matters**⁵ (supra) as a valid ground for denying attribution to military service. The petitioners can therefore not rely upon the said reason to deny the disability pension.

In the facts of this case, the Medical Board has not ascertained and identified a cause, other than military service to which the disease can be attributed. If no other causal connection for the disease has been found to exist by the Medical Board, the plea of disability pension cannot be rejected by the Military establishment and the officer would be entitled to disability pension. (Re: **Dropadi Tripathi v. Union of India**⁶)

11. In view of the aforesaid findings, the petitioners’ challenge to the grant of disability pension is without any merit and there is no infirmity in the impugned order. As held above, the report of the Medical Board fails to give any cogent reasons for opining that the disease is not attributable to the military service and the respondent has therefore been rightly held entitled to

⁵ At paragraph nos. 67 to 74.

⁶ 2025: DHC: 8709-DB at paragraphs 13 and 14



2026:DHC:294-DB



disability element of pension as per the 2008 Entitlement Rules.

12. We therefore find no merit in this petition; the petition is dismissed.

No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JANUARY 13, 2026/MG

Signature Not Verified

Digitally Signed
By: MAHIMA SHARMA
Signing Date: 21.01.2026
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