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

% *Date of Decision : 10.02.2026*

+ W.P.(C) 18861/2025 & CM APPL. 78488/2025

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Shivam Sachdeva SPC, Mr. Yash Agrawal, Mr. Sparsh Ruhela, Adv.
Major Kanika Sharma, Army

versus

EX NK JAY PRAKASH GUPTA 7773030K

.....Respondent

Through: Mr. Praveen Kumar, Adv.

7.

+ W.P.(C) 750/2026

EX NK JAY PRAKASH GUPTA SER NO 7773020 K

.....Petitioner

Through: Mr. Praveen Kumar, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Shivam Sachdeva SPC, Mr. Yash Agrawal, Mr. Sparsh Ruhela, Adv.
Major Kanika Sharma, Army

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

1. These two writ petitions have been filed challenging a common order dated 13.07.2023 passed by the Armed Forces Tribunal, Principal Bench,



New Delhi ('Tribunal') whereby the Tribunal has decided the Original Application ('O.A.') filed by the applicant/petitioner in W.P.(C) 750/2026 [O.A. No. 1818/2018] titled **Ex Nk Jay Prakash Gupta v. Union of India & Ors**, by holding in paragraph 5 onwards, as under:

"5. Having heard learned counsel on both sides, we are of the view that the case in hand is squarely covered by the decision in Ex. Sapper Mohinder Singh Vs. Union of India and Another [Civil Appeal No. 164 of 1993 (arising out of SLP No. 4223 of 1992)] decided on 15.01. 1993, which has been followed by the Tribunal in large number of orders, wherein the Hon'ble Supreme Court observed as under:

"..... xxx..... From the above narrated facts and the stand taken by the parties before us, the controversy that falls for determination by us is in a very narrow compass viz., whether the Chief Controller of Defence Accounts (Pension) has any jurisdiction to sit over the opinion of the experts (Medical Board) while dealing with the case of grant of disability pension, in regard to the percentage of the disability pension, or not. In the present case, it is nowhere stated that the petitioner was subjected to any higher Medical Board before the Chief Controller of Defence Accounts (Pension) decided to decline the disability pension to the petitioner. We are unable to see as to how the accounts branch dealing with the pension can sit over the judgment of the experts in the medical line without making any reference to a detailed or higher Medical Board which can be constituted under the relevant instructions and rules by the Director General of Army Medical Corps."

6. Subsequent to this, the Integrated HQ of MoD (Army) issued letter dated 25.04.2011, which states, "These alterations in the findings of IMB/ RMB by MAP (PCDA(P) without having physically examined the individual, do not stand to the scrutiny of law and in numerous judgments, Hon'ble Supreme Court has ruled that the Medical Board which has physically examined should be given due weightage, value and credence."

7. In light of the judgment of the Hon'ble Supreme Court in Ex Sapper Mohinder Singh (Supra), we are satisfied that the claim for disability pension was wrongly interfered with by the administrative authority. As per the approved findings of the RMB, the applicant's disability was held 'aggravated by service' due to 'physical stress and strain of service, and, therefore, the applicant is entitled for disability pension. As for obesity, in normal circumstances, we would have dismissed the prayer of applicant, however, there being no record to state the amount and details of obesity and in the counter affidavit also, the respondents have not addressed the issue of obesity of the applicant and no details are shown in this regard, particularly when the RMB has itself assessed the disability 'Hypertension with Obesity' as aggravated by service due to physical stress and strain of service, as per



relevant rules and regulations and in view of the law laid down in the judgment of the Hon'ble Supreme Court in the case of *Dharamvir Singh Vs. Union of India and others* [(2013} 7 SCC 316], we grant benefit of doubt to the applicant and hold the applicant entitled to disability element of pension. 8. Furthermore, regarding the issue of primacy of the medical board, the Hon'ble Supreme Court in its judgment in the case of *Union of India Vs. Ravinder Kumar* [Civil Appeal No.1837 of 2009} decided on 23.05.2012, has explicitly viewed that.:

“5. We are of the view that the opinion of the Medical Board which is an expert body must be given due weight, value and credence. Person claiming disability pension must establish that the injury suffered by him bears a causal connection with military service.

6. In the instant case, the Medical Board has opined as under:

“ID Generalised Tonic Seizure. MA opined that ID is genetic in origin, not connected with service.

Thus, in view of the above, it is evident that the ailments with which respondent has been suffering from is neither aggravated nor attributable to the Army Service.”

9. Consequently, the OA is allowed and the impugned order rejecting the claim of the applicant for disability pension is set aside holding that the applicant is entitled to disability element of pension from the date of his discharge @ 30% for five years, which be broad-banded to 50% in light of the judgment of the Hon'ble Supreme Court in *Union of India and Ors. Vs. Ram Avtar* [Civil Appeal 418 of 2012] decided on 10th December, 2014.

10. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order. failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

11. In view of the above, pending MAs, if any, stand closed. There is no order as to costs.”

[Emphasis Supplied]

2. At the outset, we may state the status of the party shall be referred to as per their status before the Tribunal.

3. The applicant/petitioner was enrolled in Indian Army on 21.02.1981. He was discharged from service on 28.02.1998 in low medical category, on the basis of opinion of the Release Medical Board (RMB) which assessed the applicant's disability as 'PRIMARY HYPERTENSION with OBESITY'



at 30% for five years. The RMB opined that the same was ‘aggravated by military service’. However, the disability pension was denied to the applicant stating that the disability was assessed as Neither Attributable to Nor Aggravated (‘NANA’) by military service. The claim of the applicant for grant of disability pension was rejected by the respondents/Union and Ors. vide letter dated 07.09.1998 stating that the disability of the respondent was ‘Constitutional in nature and not related to service’.

4. The applicant filed, RTI application dated 17.12.2014 seeking copy of the medical examination report which was supplied to him on 10.10.2014. The applicant filed the O.A. for grant of disability pension.

5. The case of the applicant before the Tribunal was that, when the RMB has assessed the disability as ‘aggravated by service’, the interference by the administrative authorities is against the law as laid down by the Supreme Court.

6. On the other hand, the case of the respondents was that the applicant is not entitled to relief since the respondents have found the applicant ineligible for grant of disability pension as per existing rules/provisions and also on the ground that the disability was NANA by military service.

7. The Tribunal in paragraph 5 onwards, of the judgment, has by referring to the judgment of the Supreme Court in ***Ex. Sapper Mohinder Singh v. Union of India and Anr.*** in Civil Appeal No. 164/1993 decided on 15.01.1993, held that the claim of the disability pension was wrongly interfered with by the administrative authority, when RMB had held that disability is aggravated by stress and strain of the service.

8. Therefore, the Tribunal held that applicant is entitled to disability pension. The Tribunal also held that, as far as obesity is concerned, in



normal circumstances it would have dismissed the prayer of the applicant, however, there being no record to state the amount and details of obesity, i.e., by granting the benefit of doubt to the applicant, held that the applicant shall be entitled to disability pension.

9. At the outset, learned counsel for the appellant states that the respondents have implemented the order of the Tribunal inasmuch as they have issued PPO and has granted disability pension for a period of only five (5) years from 01.03.1998 to 28.02.2003.

10. The submission of the counsel for the applicant challenging the order of the Tribunal is primarily by relying upon the policy of the respondents dated 07.02.2001, more specifically paragraph 7, contend that, when the RMB has assessed the disability as hypertension, which disability is permanent in nature, then it must be construed as a disability for life and not for five years, as held by the Tribunal. The relevant paragraph 7 is as under:-

“7.Re-assessment of Disability: There will be no periodical reviews by the Resurvey Medical Boards for re-assessment of disabilities. In case of disabilities adjudicated as being of a permanent nature, the decision once arrived will be and for life unless the individual himself requests for a review. In cases of disabilities which are not of a permanent nature, there will be only one review of the percentage by a Reassessment Medical Board, to be carried out later, within a specified time frame. The percentage of disability assessed/recommended by the Reassessment Medical Board will be final and for life unless the individual himself asks for a review. The review will be carried out by Review Medical/Board constituted by DGAFMS. The percentage of disability assessed by the Review Medical Board will be final.”

[Emphasis Supplied]

11. He also relies upon by the judgment of the Supreme Court in the case



of **Commander Rakesh Pande vs Union of India and Ors.** Civil Appeal No. 5970/2019, whereby the Supreme Court has, in identical facts, wherein the appellant was granted the benefit of disability pension for a period of five years, has allowed the claim of the applicant by holding that, he shall be entitled to the disability pension at 50% for life.

12. He submits that the issue being no more *res integra*, the applicant is entitled to disability pension for life.

13. On the other hand, learned counsel for the respondents/UOI and Ors. challenges the order of the Tribunal by stating that the Tribunal could not have granted the disability pension in the manner it has done when the disability is NANA by military service.

14. Having heard the learned counsel for the parties, and perused the record, the short issue which arises for consideration is; whether the Tribunal is justified in allowing the O.A. of the applicant by granting him the disability pension for a period of five years or the applicant is entitled to the benefit of disability pension for life.

15. The submission of the learned counsel for the respondents against the judgment is primarily that, when the disability is NANA by military service, the Tribunal could not have granted the disability pension at all. He also contest the writ petition filed by the applicant by stating that, when the Tribunal has granted the disability pension for a period of five years, the same is justified and the plea of the counsel for the applicant that the applicant shall be entitled disability pension for life is clearly misplaced.

16. Suffice to state that there is no denial of the fact that the RMB in its recommendations has clearly held that the disability is because of the stress and strain of service. If that be so, respondents could not have formed an



opinion at variance with the opinion of the RMB, a specialised body consisting of persons with expertise.

17. Hence, the issue needs to be proceeded on the premise that the disability of the applicant was aggravated because of military service and the applicant was rightly granted disability pension.

18. Now the only issue to be decided is, whether the applicant shall be entitled to the disability pension for life.

19. Learned Counsel for the applicant had relied upon the policy of 2001, which we have reproduced above. The said policy was referred and applied by the Supreme Court in its judgment in **Commander Rakesh Pande (supra)**, wherein, it held that:

“At the time of his retirement, the Release Medical Board (RMB) assessed his degree of disablement @ 20% for NIDDM and 6-10% for Hyperlipidaemia for a period of 5 years. The appellant was not granted disability pension as his medical disability was assessed as neither attributable to nor aggravated by military service.

Para 7 of the letter dated 07.02.2001 provides that no periodical reviews by the Resurvey Medical Boards shall be held for reassessment of disabilities. In case of disabilities adjudicated as being of permanent nature, the decision once arrived at will be for life unless the individual himself requests for a review. The appellant is afflicted with diseases which are of permanent nature and he is entitled to disability pension for his life which cannot be restricted for a period of 5 years. The judgment cited by Ms. Praveena Gautam, learned counsel is not relevant and not applicable to the facts of this case. Therefore, the appeal is allowed and the appellant shall be entitled for disability pension @ 50 % for life.”

[Emphasis Supplied]

20. A perusal of the above judgment would reveal that the appellant



therein was also declared to have the disability of Non-Insulin Dependent Diabetes Mellitus ('NIDDM') (to the extent of 20%) and Hyperlipidaemia (6-10%). He was granted disability pension for a period of five years.

21. The Supreme Court by referring to scheme of 2001 has concluded that in a case where the disability is adjudicated as permanent in nature, the decision once arrived at, will be final for life unless the individual himself request for a review. The Supreme Court has also concluded that the appellant therein was afflicted with diseases which are permanent in nature and as such he is entitled to disability pension for life which cannot be restricted for a period of five years.

22. If that be so, we are of the view that the plea urged by the learned counsel for the applicant is covered by the judgment in the case of **Commander Rakesh Pande (supra)**, inasmuch as, the disability of the applicant being Hypertension with Obesity, and Hypertension as a disability is permanent in nature, the applicant shall be entitled to the benefit for life.

23. Suffice to state that the petitioner had approached the Tribunal only on 27.10.2018, which means that he has approached the Tribunal after more than 20 years, from the date of his discharge from service. The Tribunal in the impugned order has granted the benefit of disability pension only for a period of five years, 1998 to 2003.

24. As we have accepted the plea advanced by the counsel for the applicant, the benefit of disability element in pension in his favour shall be from three years prior to the filing of the OA before the Tribunal i.e., with effect from the year 2015 [Reference **Union of India v. Tarsem Singh, 2008 Vol 8 SCC 648**]. In other words, we hold that the applicant shall be entitled to the disability element in pension assessed at 30% for life (broadbanded at



50%) in accordance with the law laid down by the Supreme Court in *Union of India vs. Ram Avtar, 2014 SCC OnLine SC 1761*. The benefit of rounding off would be available from the date of the decision in *Ram Avtar (supra)* but the arrears of disability pension shall be from three years prior to the filing of the OA, subject to adjustment of the amount already received by the applicant. The same shall be paid within 12 weeks from today. We also make it clear, if after adjustment, any money is liable to be refunded by the applicant, the same shall be adjusted against the benefits to be paid in future.

25. In view of our above conclusion, the petition filed by the applicant is allowed and the one filed by the respondents is dismissed.

26. Pending application, if any, is dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 10, 2026/hp