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

% *Date of Decision : 19.03.2026*

\+ **W.P.(C) 3568/2026 CM APPL. 17311/2026 CM APPL. 17312/2026**

UNION OF INDIA & ORS.

.....Petitioner

Through: Mr. Shashank Dixit, CGSC, Mr. Kunal Raj, Adv.

versus

20119 GP CAPT SK SINGH (RETD.) .....Respondent

Through: Appearance not given

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J *(ORAL)*

1. This is a writ petition filed under Article 226 of the Constitution of India against the order dated 20.12.2024 ['impugned order'] passed by the Armed Forces Tribunal Principal Bench, New Delhi ['Tribunal'] in Original Application ['O.A.'] No. 346/2019 titled as **GP CAPT S.K. Singh (Retd.) v. Union of India & Ors.,** wherein the Respondent has been granted the benefit of the disability element of pension for the disability 'Moderately Severe Conductive Hearing Loss (RT) Ear' assessed at 20% for life, rounded off to 50% for life, from the date of his discharge from the service. The Tribunal has limited the arrears for the period of three (3) years prior to the institution of the O.A.

2. The facts giving rise to the present petition are that the Respondent

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who was commissioned in the Indian Air Force ('IAF') on 21.07.1989, took premature retirement from service on 31.07.2012 in Low Medical Category ('LMC').

3. The Release Medical Board ['RMB'] held on 15.04.2013 assessed the disability i.e., 'Moderately Severe Conductive Hearing Loss (RT) Ear' at 20% for life as neither attributable to nor aggravated ['NANA'] by the military service. The reasons for holding NANA are not ex-facie evident from the report dated 15.04.2013. However, the impugned order[1] records the submission of the Petitioner to the effect that since the onset of the disease was at the time when the Respondent was serving at the peace station, the aforesaid disability is NANA.

4. The Respondent's claim of disability pension was rejected by the Petitioner vide letter dated 14.06.2013 relying upon the report of the RMB. The Respondent's first appeal dated 13.11.2018 challenging the said rejection was rejected by the Petitioners vide letter dated 28.12.2018 stating the reasons that firstly, the disability is NANA and secondly, the appeal had not been preferred within the prescribed time limit i.e., after 6 years from rejection of the initial claim.

5. In these facts, Respondent filed an O.A. No. 346 of 2019 before the Tribunal for the grant of disability element of pension. By the impugned order, the Tribunal after referring to the judgments of the Supreme Court in **Dharamvir Singh v. Union of India and Ors**.[2] and **Union of India v. Ram Avtar**[3] has granted the relief of disability pension.

6. The submission made by the learned counsel for the Petitioners is that

[1] At paragraph no. 10 of the impugned order
[2] 2013 (7) SCC 361
[3] 2014 SCC OnLine SC 1761

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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 ['Entitlement Rules, 1982'], whereas the case of the Respondent needs to be considered under the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 ['Entitlement Rules, 2008'].

6.1 He contends that the Tribunal has overlooked the Entitlement Rules, 2008, which govern attributability and aggravation and no longer permit a blanket presumption in favour of the claimant/officer; and since the RMB has opined the disease to be NANA, the Tribunal could not have presumed a causal connection between the disease and the service.

6.2 He states that the impugned order incorrectly applies the presumption under the repealed Entitlement Rules, 1982, ignoring the amended regime under Entitlement Rules, 2008. He states that the Entitlement Rules, 2008, have done away with the general presumption to be drawn to ascertain the principle of 'attributable to or aggravated by military service'.

6.3 He states in the facts of this case, Respondent took premature retirement from service on 31.07.2012 and therefore, the Respondent would be governed by Entitlement Rules, 2008.

7. In the facts of this case, since the Respondent took retirement from service on 31.07.2012, the Respondent's claim for disability pension would indeed be governed by the Entitlement Rules, 2008.

In another petition, i.e., W.P.(C) 88/2026 titled **Union of India v. 781466 Ex. SGT Krishna Kumar Dwivedi**, decided by this Bench on 06.01.2026, our attention was drawn to the authoritative judgments of the

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coordinate Benches of this Court passed in W.P.(C) 3545/2025 titled **Union of India v. Ex. Sub Gawas Anil Madso**[4] and W.P.(C) 140/2024 titled **Union of India vs. Col. Balbir Singh (Retd.)** and other connected matters[5], which have conclusively held that even under Entitlement Rules, 2008 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 judgments emphatically hold that even under the Entitlement Rules, 2008, the onus to prove a causal connection between the disability and military service is not on the officer but on the administration. The judgments hold that the Entitlement Rules, 2008, however, contemplate that in the event the Medical Board concludes that the disease, though contracted during the tenure of military service, was NANA by military service, it would have to give cogent reasons and identify the cause, other than military service, to which the ailment or disability can be attributed. The judgments hold that a bald statement in the report of the Medical Board opining 'ONSET IN PEACE STATION' would not be sufficient for the military department to deny the claim of disability pension; and rejected the opinions of the Medical Board. The judgments hold that the burden to prove the disentitlement of pension therefore remains on the military department even under the Entitlement Rules, 2008; and emphasise on the significance of the Medical Board giving specific reasons to justify their opinion for denial of this beneficial provision to the officer.

8. On the issue of establishing causal connection of the disease with factors other than military service, we note that the Supreme Court in its

[4] 2025: DHC: 2021-DB

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recent judgment in the case of **Bijender Singh vs. Union of India**[6] has reiterated that it is incumbent upon the Medical Board to furnish reasons for opining that a disease is NANA and the burden to prove the causal connection (as other than military service) is on the Military Establishment.

The character of reasons to be recorded by the Medical Board has been succinctly explained by the Supreme Court in another recent decision of **Rajumon T.M. v. Union of India**[7]. The Supreme Court held that merely stating an opinion, such as 'Constitutional Personality Disorder' without giving reasons or causative factors to support such an opinion, is an unreasoned medical opinion and thus invalid. The Supreme Court explained that the said opinion of the Medical Board was merely a conclusion and would not qualify as a reasoned opinion for holding the disease/disability to be NANA.

9. In this background of settled law holding that the onus to prove disentitlement remains on military establishment vis-à-vis Entitlement Rules, 2008 and the Medical Board must give cogent reasons for denying attributability and aggravation of the disease to military service, we have examined the facts of this case.

10. The Respondent who was commissioned in the IAF on 21.07.1989 was dignosed with the disease/disability Moderately Severe Conductive Hearing Loss (RT) Ear in the year 2010 [after 21 years of service], while he was serving at peace station and therefore, the disease has indisputably arisen during his military service.

11. The Petitioners have raised the issue of non-entitlement of the

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[5] 2025: DHC: 5082-DB
[6] 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47
[7] 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36

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disability element of the pension on the ground that the Medical Board has held that the disease is NANA by the military service. The opinion rendered by the RMB is extracted as under:

OPINION OF THE MEDICAL BOARD

1. Casual 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)	Reasons/causes/specific conditions and period in service
MODERATELY SEVERE CONDUCTIVE HEARING LOSS (RT)	NO	NO	YES	Refer initial Med Board held on 21 Dec 10
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)				

The Petitioners have not produced the report of the Medical Board held on 21.12.2010.

12. The Tribunal after examining the relevant rules of Entitlement Rules, 2008 as well as Regulation 423 of Regulations for the Medical Services of the Armed Forces, 2010, and para 23 of the Guide to Medical Officers (Military Pensions), 2008 held as under:-

> "18. In the instant case, the applicant was a pilot and it is well known that the working environment in flying branch is very noisy and pilots are exposed to very high decibels of noise level. The onset of the disability took place in December 2010 after 21 years and 5 months of long service. During this long period of service, the applicant would have been exposed to loud noise being a pilot and having flown different types of Aircraft viz HPT-32, Iskara, Mig-21, Mig-29, Dornier and AN-32. Therefore, the said disability of 'Moderately Severe Conductive Hearing Loss (Rt) Ear' of the applicant is conceded to be aggravated by military service as per Para 23 of Guide to Medical Officers (Military Pensions), 2008."

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13. There is no ground in the writ petition challenging the aforesaid finding of the Tribunal. On the contrary, we find that inapplicable grounds have been pleaded in the writ petition i.e., ground 'J'.

14. However, the Petitioners contend that disease is NANA since the 'onset of the disease was at a peace area' and that there was no stress or strain of the service.

This precise reason in the medical opinion has been specifically rejected by the coordinate Bench of this Court in **Col. Balbir Singh (Retd.) (supra)**[8], while granting disability pension to the officer suffering from Primary Hypertension, and has been held to be an invalid ground for denying attributability to the service. The Division Bench in the said decision after taking note of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010 held that the fact that the disability occurred in normal peace conditions is immaterial and by itself is not sufficient to deny disability pension to the officer. The ratio of the said judgment is squarely applicable in the facts of this case.

15. No other reason/ground has been cited by the Petitioner for opining NANA. In fact, the RMB herein categorically records in response to the question no. 2, that the Respondent did not have this disability before entering into service at internal page 5 of RMB[9] and also to the response of question no. 5 (a) and (b), that the disability is not attributable or aggravated to the officer's own negligence or misconduct.

In these facts, since no other causal connection for the disease has been found to exist by the RMB (except onset at peace station), the claim of

[8] At paragraph nos. 66 to 74
[9] Page 81 of the paper book

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disability pension has been wrongly rejected by the Military establishment, and the officer has been rightly held to be entitled to disability pension, by the Tribunal.

16. We also note that in exercise of the certiorari jurisdiction of this Court over the decision of the Tribunal, the limited parameters of the jurisdiction are delineated in the judgment of **Syed Yakoob v. K.S. Radhakrishnan**[10]. We have examined the impugned order within the said parameters and find no ground to interfere with the impugned order.

17. Additionally, we note that the impugned order is dated 20.12.2024 and the petition has been filed after nearly two years, without any explanation for such a delay. The Petitioner was obliged to comply with the impugned order of the Tribunal within three (3) months with effect from 20.12.2024; however, the same has not been complied with till date. Keeping in view that the claim of disability pension is beneficial in nature, the Petitioner ought to have taken steps to file its challenge within a time bound period, and certainly before the period of three (3) months had lapsed. There is no explanation whatsoever for the delay in approaching this Court and presumably the order of Tribunal have also not been complied with till date. We thus, hold that filing of this petition is also barred by delay and laches.

18. In view of the aforesaid findings, the Petitioners' challenge to the grant of disability element of pension to the Respondent, is without any merits. The Petitioners are directed to comply with the order of the Tribunal without any further delay.

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

[10] (1963) SSC OnLine SC 24 at paragraph 7 and 8

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Pending application, if any, stands dismissed. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

MARCH 19, 2026/IB/rhc

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