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

% *Date of Decision : 30.03.2026*

+ **W.P.(C) 4096/2026, CM APPL. 20070-20072/2026**

UNION OF INDIA & ORS.

.....Petitioners

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

versus

EX LME KAILASH BAGHEL

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

CM APPL. 20070/2026 (exemption)

1. Exemption is allowed subject to all just exceptions.
2. The application is disposed of.

CM APPL. 20072/2026

1. This is an application filed on behalf of petitioner for taking on record additional documents.
2. For the reasons stated in the application, the same is allowed.
3. The application is disposed of.

W.P.(C) 4096/2026

4. This is a writ petition filed under Article 226 and 227 of the Constitution of India against the order dated 02.05.2023 ['impugned order']



passed by the Armed Forces Tribunal Principal Bench, New Delhi [‘Tribunal’] in Original Application [‘O.A.’] No. 826 of 2020 titled as **Ex LME Kailash Baghel v. Union of India & Ors.**, wherein the Respondent has been granted the benefit of the disability element of pension for the disability of ‘Mixed Mechanism Glaucoma with Advanced Glaucomatous Changes both Eyes’ assessed at 40% for life, rounded off to 50% for life, from the date of his retirement from the service.

5. The facts giving rise to the present petition are that the Respondent was discharged from the service on 31.07.2019 in low medical category [‘LMC’] S3A2(E) PMT after the completion of 15 years and 05 days of qualifying service.

6. The Release Medical Board [‘RMB’] held on 11.03.2019 assessed the aforesaid disability at 40% for life and opined that the same is neither attributable to nor aggravated [‘NANA’].

7. The Respondent’s claim of disability pension was rejected *vide* letter dated 13.08.2019, as the disability was held to be NANA. Respondent’s first appeal, filed on 31.08.2019, challenging the said rejection received no reply from the Petitioners.

8. Subsequently, Respondent filed an O.A. No. 826 of 2020 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.**¹ and **Union of India v. Ram Avtar**² has granted the relief of disability pension to the Respondent.

¹ 2013 (7) SCC 361

² 2014 SCC OnLine SC 1761



8.1 The 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 ['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'].

8.2 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.

8.3 He states in the facts of this case, Respondent was discharged from services on 31.07.2019 and therefore, the Respondent would be governed by Entitlement Rules, 2008.

8.4 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'.

8.5 He states that the Tribunal wrongly applied the judgment of **Ram Avtar** (supra), which is inapplicable in the facts of this case.

9. The Respondent was discharged from service on 31.07.2019 and therefore, *indeed*, the Respondent's entitlement for disability pension will be



governed by Entitlement Rules, 2008.

10. Nevertheless, having perused the reasons recorded in the RMB for opining NANA, we are unable to agree with the submissions made by the learned counsel for the Petitioners that the Tribunal committed any error in granting relief to this Respondent.

11. 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 coordinate Benches of this Court passed in W.P.(C) 3545/2025 titled **Union of India v. Ex. Sub Gawas Anil Madso**³ and W.P.(C) 140/2024 titled **Union of India vs. Col. Balbir Singh (Retd.) and other connected matters**⁴, 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

³ 2025: DHC: 2021-DB

⁴ 2025: DHC: 5082-DB



attributed. 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.

12. On the issue of establishing causal connection of the disease with factors other than military service, we also note that the Supreme Court in its recent judgment in the case of **Bijender Singh vs. Union of India**⁵ 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**⁶. 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.

13. 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

⁵ 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47

⁶ 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36



attributability and aggravation, we have examined the facts of this case.

14. The Respondent was commissioned in the Indian Navy on 27.07.2004 and the disability of 'Mixed Mechanism Glaucoma with Advanced Glaucomatous Changes both Eyes' was discovered in the year 2012 [after 8 years of service], while he was serving at a field station posted at Mumbai/INS Mysore and therefore, the disease has indisputably arisen during his military service.

15. In these facts, the Tribunal has recorded in its impugned order that the onset of the disease was while serving in the field area and Respondent had in previous two postings served at field areas and carried out stressful duties, in difficult environmental conditions, putting tremendous pressure on his health and that stress and strain is one of the known factors which can precipitate the said disease⁷. In these facts, upon perusal of the RMB, the Tribunal concluded that the Petitioner had failed to rebut the presumption that the disability was aggravated due to military service.

16. It would be appropriate to refer to the decision of a coordinate Bench of this Court in **Union of India vs. SGT Parmendra Kumar Singh**⁸. The Division Bench while upholding the order of the Tribunal granting disability pension to an officer suffering from 'Open Angle Glaucoma' after referring to para 35 of chapter VI of GMO 2008⁹ held that where admittedly the said disease was contracted after being enrolled in the military service, in the absence of specific reasons enlisted by the Medical Board as required by para 35 of chapter VI of GMO 2008 in the RMB for opining NANA, the

⁷ At paragraph 3, 10 and 11 of the impugned order

⁸ 2025 SCC Online Del 2290 at paragraphs 9 and 10

⁹ Guide to Medical Officers (Military Pension), 2008



officer would be entitled to disability pension. The Division Bench held that in such cases Medical Board would have to state in the report that there is no evidence of any undue medical or any physical stress, as the cause of the Glaucoma.

17. In the facts of this case, the Petitioners have raised the issue of non-entitlement of the 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 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
MIXED MECHANISM GLAUCOMA WITH ADVANCE GLAUCOMATOUS CHANGES BOTH EYES, ICD NO. H 42.0	N	N	Y	Neither attributable to nor aggravated by military service vide para 35(a) chapter VI of GMO 2008
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 (Mi Pension)-2002)				

18. No other reasons/ground has been cited in the RMB report of the Respondent for opining NANA and none has been urged by the Petitioner.

19. We may note that 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 6 of RMB¹⁰ 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.

However, as required under para 35, Chapter VI of the GMO, there is

¹⁰ Page 97 of the paper book



no opinion by the RMB to the effect that there is no evidence of any undue mental or physical stress of field service leading to the Respondent suffering from the disease. In the absence of such a positive finding by the RMB, the Petitioner is estopped from contending that the disability is NANA [Re: **SGT Parmendra Kumar Singh** (supra)]. Thus, the impugned judgment granting the relief of the disability pension prayed for by the Respondent, requires no interference.

20. The submission of the Petitioner that the Respondent is not entitled to broad banding is a bald assertion and hence, rejected.

21. We also note that in exercise of the certiorari jurisdiction of this Court over the decision of the Tribunal, this Court has the limited jurisdiction delineated and the said parameters of jurisdiction are enlisted in the judgment of **Syed Yakoob v. K.S. Radhakrishnan**¹¹. We have examined the impugned order within the said parameters and find no ground to interfere with the impugned order, noting the reasons recorded by the Tribunal.

22. Additionally, we note that the impugned order is dated 02.05.2023 and the petition has been filed after nearly three 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 02.05.2023; 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.

¹¹ (1963) SSC OnLine SC 24 at paragraph 7 and 8



There is no explanation whatsoever for the delay in approaching this Court and presumably the order of Tribunal have also not been complied with. We thus, hold that filing of this petition is also barred by delay and laches.

23. The Petitioners are directed to comply with the order of the Tribunal without any further delay.

24. We therefore, find no merit in this petition; the petition is dismissed. Pending applications, if any, stands dismissed. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

MARCH 30, 2026/IB