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

\+ W.P.(C) 25/2026

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Akash Chatterjee, SPC.

versus

CAPT (TS) R K SABHERWAL (RETD)

.....Respondent

Through: Mr. Shakti Chand Jaidwal and Mr. Akshat Singh, Advs.

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

<u>O R D E R</u>

% **05.01.2026**

<u>CM APPL. 40/2026 (Exemption)</u>

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>W.P.(C) 25/2026, CM APPL. 39/2026</u>

3. This writ petition lays a challenge to an order dated 16.07.2024 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi ("Tribunal") in Original Application ("OA") No. 3046/2022 read with MA 1909/2024 and MA 4263/2022 whereby the Tribunal has allowed the OA filed by the respondent by directing in paragraph 12 onwards as under:-

> *"12. The issue of attributability of disease is no longer res integra in view of the verdict of the Hon'ble Apex*

Court in Dharamvir Singh v. Union of India (supra), wherein it is clearly spelt out that any disease contracted during service is presumed to be attributable to military service, if there is no record of any ailment at the time of enrollment into the military Service.

13. Furthermore, the issue regarding the attributability of Diabetes Mellitus has been settled by the Hon'ble Supreme Court in Commander Rakesh Pande v. Union of India (Civil Appeal No. 5970 of 2019) wherein the Apex Court has not only held that the Diabetes Mellitus is a disease which is of permanent nature and will entitle the applicant to disability pension, but also observed that in case where the disability is of permanent nature, the disability assessed by the Medical Board shall be treated for life and cannot be restricted for specific period.

14. Regarding broadbanding benefits, we find that the Hon'ble Supreme Court in its order dated 10.12.2014 in Union of India v. Ram Avtar, Civil Appeal No. 418 of 20 1 2 and connected cases, has observed that individuals similarly placed as the applicant are entitled to rounding off the disability element of pension. We also find that the Government of India vide its Letter No. F.No.3(11)2010-D (Pen/Legal) Pt V, Ministry of Defence dated 18th April 2016 has issued instructions for implementation of the Hon'ble Supreme Court order dated 10.12.2014 (supra).

15. Applying the above parameters to the case at hand, we are of the view that the applicant has been discharged from service In low medical category on account of medical disease/ disability, the disability must be presumed to have arisen in the course of service which must, in the absence of any reason recorded by the Medical Board, or the applicant being overweight, be presumed to have been attributable to or aggravated by Naval service.

16. Therefore, in view of our analysis, the OA is partly

allowed and respondents are directed to grant benefit of disability element of pension compositely assessed @ 44% for life (for DIABETES MELLITUS Type II @ 20% and PRJMARY HYPERTENSION @ 30% for life), rounded off to 50% In view of judgement of Hon'ble Apex Court m Union of India. v. Ram Avtar (supra). However, the arrears shall be restricted to three years from prior to the date of filing of this OA which is 20.12.2022. The arrears shall be disbursed to the applicant within four months of receipt of this order failing which it shall earn interest @6% p.a. till the actual date of payment.
17. Consequently, the OA 3046/ZOZZ is partly allowed.
18. No order as to costs.
19. Pending miscellaneous applications, if any, stands closed."

4. The Tribunal has partially allowed the OA filed by the respondent herein and directed the petitioners herein to grant the benefit of disability element of pension compositely assessed at 44% for life rounded off to 50% in favour of the respondent herein but restricting the arrears thereof to 3 year prior to the date of filing of the OA, which is 20.12.2022.

5. The only submission made by the learned counsel for the petitioners is that the Tribunal has erred in granting the pension by relying upon the judgments which are inapplicable in this case and further without differentiating between the applicability of the Entitlement Rules for Armed Forces Personnel, 1982 and the Entitlement Rules of 2008.

6. He submits that the disease like blood pressure/diabetes cannot be made attributable to the service in Armed Forces. In other words, it is his submission that given the life style prevalent as of today, it is in normal course of life a person can be hypertensive.

7. We find that in paragraph 12, the Tribunal has referred to the judgment of the Supreme Court in the case of ***Dharamvir Singh v. Union of India & Ors., 2013 (7) SCC 361*** to hold that the issue of attributability of disease is no longer *res integra*, as the Supreme Court in the judgment has clearly spelt out that any disease contracted during service is presumed to be attributable to military service, if there is no record of any ailment at the time of enrolment into the military service.

8. It is a conceded case of the petitioners that at the time of appointment to military service, the respondent did not had hypertension. If that be so, the judgment has been rightly made applicable by the Tribunal to facts of this case and thereby granted the benefits to the respondent herein.

9. We do not see any merit in the petition, the petition is dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 5, 2026/sr