



2026:DHC:214-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision : 06.01.2026*+ **W.P.(C) 55/2026 & CM APPL. 293-294/2026****UNION OF INDIA & ORS.**

.....Petitioners

Through: Mr. Raj Kumar, CGSC
Sgt. Mritunjay and Sgt. Padam
Charan, DAV, Legal Cell, Air Force

versus

(677223) EX WO RAJBIR SINGHRespondent

Through: Mr. Ramniwas Bansal, Adv.

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****V. KAMESWAR RAO , J. (ORAL)****CM APPL. 294/2026**

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

W.P.(C) 55/2026

3. This petition lays a challenge to an order dated 28.03.2024 passed by the Armed Forces Tribunal, Principal Bench, New Delhi in O.A. No. 2235/2022 whereby the Tribunal has allowed the O.A. filed by the respondent herein by stating as under:

“4. Accordingly, we partially allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for



*life from the date of retirement i.e., 30.09.2021 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of **Union of India Vs. Ram Avtar** (Civil Appeal No. 418/2012) decided on 10.12.2014.*

5. 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."

4. The respondent was enrolled in Indian Air Force on 05.03.1983. He was discharged while working as Warrant Officer on 30.09.2021. The case of the respondent before the Tribunal was that, in view of the Primary Hypertension his disability was assessed at 30% (rounded off to 50%) as is evident from the opinion of the Release Medical Board (RMB).

5. He approached the Tribunal by making a claim for disability element of the pension. The said prayer was allowed by the Tribunal in terms of the directions, which we have already reproduced above.

6. The only submission made by Mr. Raj Kumar, learned standing counsel for the petitioner is that the respondent having retired in the normal course that is on attaining the age of 57 years which is the retirement age, the Tribunal could not have granted the disability element of pension. His submission is also, that the Tribunal has also failed to appreciate that the basic criterion to award disability pension in terms of Rule 6 of the Entitlement Rules, 2008, is that there should be a casual connection between the disability and the military service. In the present case, the disability of the respondent was assessed neither attributable to nor aggravated by the military service by the RMB and other medical authorities, the respondent is not entitled to disability pension.

7. We are unable to accept the submission of the learned counsel for the



petitioners. It is relevant to note that, at the time, the respondent had joined the Air Force it was without any pre-existing disability such as Hypertension and in view of the judgment of the Supreme Court in ***Dharamvir Singh v. Union of India & Ors.***,¹ wherein it was held that Primary Hypertension may arise even in a peaceful area owing to the stress and strain of military service, the personnel shall be entitled to disability element of the pension.

8. In this case, the disability being Primary Hypertension, which has been assessed by the RMB at 30%, the Tribunal was justified in granting the relief as prayed for by the respondent. We may reproduce the reasons assigned by the RMB in the following manner:

Disability	Attributed to service (Y/N)	Aggravated by service (Y/N)	DETAILED JUSTIFICATION
(i) PRIMARY HYPERTENSION ICD NO .I10.0	NO	NO	There is no delay in diagnosis/treatment. Disability is life style disorder, not related to stress and strain of service. Onset in peace area and remained in peace area one year prior to onset of disability. There is no close time association with HAA/Fd/CI Ops Area. Aggravation is conceded when the onset occurs while serving in Fd/CI Ops/HAA/Alloot service. It is held as NANA due to onset of disability in peace area. Hence disability is conceded as NANA by service in terms of Para 43, chapter VI, GMO 2002/2008.
(ii) OSTEOCHONDRAL LESION TALUS (LT) M93.0, Z-09.00	YES	NO	The air warrior sustained injury while going to duty. 1BRD, AF. Hence the disability is attributable to service as per injury report dated 10 Aug 2018. Injury report attached.

9. We note that there was a second disability of Osteochondral Lesion Talus at 15% and as the said disability has been assessed less than 20%, the Tribunal's finding is that the said disability does not fulfil the twin criteria as per Rule 153 of Pension Regulations of 1965 and the same was denied.

10. We may at this stage refer to the judgment of the Supreme Court in the case of ***Bijender Singh vs. Union of India and Other s(s)***², wherein paragraphs 45.1, 46 and 47, the Supreme Court has held as under:

¹ (2013) 7 SCC 361



“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 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

² 2025 SCC OnLine SC 895



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)

11. In view of the position of law as noted by the Tribunal and also by us, we are of the view, in the absence of reasons by the RMB to say that the disease is neither attributable nor aggravated by service, the order of the Tribunal is required to be upheld by stating the Tribunal is justified in its final conclusion. The present petition is without any merit. The same is liable to be dismissed along with the pending applications. We order accordingly. No costs.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 6, 2026/msh