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

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*Date of Decision : 07.01.2026*

+ **W.P.(C) 132/2026, CM APPL. 653/2026 & CM APPL. 654/2026**

UNION OF INDIA AND ORS

.....Petitioners

Through: Mr. Ankit Raj, SPC, Mr. Vikram Kumar, Mr. Ali Mohammed Khan and Mr. Digvijay Singh, Advs.

versus

HFO BHAGAT RAM DHIMAN RETD

.....Respondent

Through:

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**MANMEET PRITAM SINGH ARORA, J. (ORAL)**

**CM APPL. 654/2026**

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

**W.P.(C) 132/2026 & CM APPL. 653/2026**

3. This petition under Article 226 of the Constitution of India lays a challenge to the order dated 18.11.2024 ('impugned order') passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in O.A. 640/2024 titled **HFO Bhagat Ram Dhiman(Retd.) v. Union of India and Others**, wherein the respondent has been granted the benefit of the disability element of pension at 30% for the disability of Primary Hypertension, rounded off to 50% for life.



4. The facts to be noted are the respondent was enrolled into the Indian Air Force on 10.09.1983 and retired from the service on 31.01.2022. The Release Medical Board ('RMB,' for short) proceedings were held on 31.03.2021, wherein the Medical Board opined that the respondent has disability of Primary Hypertension at 30% for life and further assessed that the aforesaid disability was neither attributable nor aggravated by military service.

5. The respondent's claim for disability pension was rejected by the petitioners and therefore, the respondent approached the Tribunal by filing O.A. 640/2024 praying for grant of disability element of pension. The respondent's case before the Tribunal for grant of disability element of pension from the date of release (i.e., 01.02.2022) was on the ground that he had developed the disease of Primary Hypertension during his service and in that sense, the disease is attributable to the military service.

6. By the impugned order dated 18.11.2024, the Tribunal allowed the respondent's claim and held that the respondent is entitled to disability element of pension in respect of disability of Primary Hypertension at 30% rounded off to 50% for life. The Tribunal referred to the judgments of the Supreme Court in *Dharamvir Singh v. Union of India and Ors.*<sup>1</sup>, and *Union of India v. Ram Avtar*<sup>2</sup> for granting the relief as claimed by the respondent herein.

7. The only submission made by the learned counsel for the petitioner 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

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<sup>1</sup> 2013 (7) SCC 361

<sup>2</sup> 2014 SCC OnLine SC 1761



case) the Supreme Court was concerned with the Entitlement Rules for Casualty Pensionary Awards, 1982 ('1982 Entitlement Rules', for short), whereas the case of the respondent need to be considered under the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 ('2008 Entitlement Rules', for short).

Learned counsel for the Petitioners contends that the Tribunal has overlooked 2008 Entitlement Rules, which govern attributability/aggravation and the Rules no longer permit a blanket presumption in favour of the claimant. He states in the facts of this case, Respondent was discharged on 31.01.2022 and therefore, the respondent would be governed by 2008 Entitlement Rules. He states that the impugned order applies the presumption under the repealed 1982 Entitlement Rules, ignoring the amended regime under 2008 Entitlement Rules.

8. We are unable to agree with the submission made by the learned counsel for the petitioners.

9. In 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***<sup>3</sup> and W.P.(C) 140/2024 titled ***Union of India vs. Col. Balbir Singh (Retd.) and other connected matters***<sup>4</sup>, which have conclusively held that even under 2008 Entitlement Rules, an officer who suffers from a disease at the time of his release and applies for disability pension within 15 years from the release, is ordinarily entitled to disability

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<sup>3</sup> 2025: DHC: 2021-DB

<sup>4</sup> 2025: DHC: 5082-DB



pension and he does not have onus to prove the said entitlement. The 2008 Entitlement Rules, however, contemplate that in the event the Medical Board concludes that the disease though contracted during the tenure of military service, was not attributable to or aggravated 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 would not be sufficient, for the military department for denying the claim of disability pension. The burden to prove the disentanglement therefore remains on the military department even under 2008 Entitlement Rules and the aforesaid judgments emphasize on the significance of the Medical Board giving specific reasons for denial of this beneficial provision. The judgments hold that the onus to prove a casual connection between the disability and military service is not on the officer but on the administration.

10. We for benefit also note that the Supreme Court in its recent opinion in the case of ***Bijender Singh vs. Union of India and Others***<sup>5</sup>, has in paragraphs 45.1, 46 and 47, held as under:

*“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*

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<sup>5</sup> 2025 SCC OnLine SC 895



*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 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 the background of law settled vis-à-vis 2008 Entitlement Rules, we examine the facts of this case.

12. The Tribunal has held that the respondent is entitled to disability element of pension in respect of his disability i.e., Primary Hypertension assessed at 30% rounded off to 50% for life. The petitioners do not dispute the disability of the respondent, which is also borne out from the medical record. The petitioner has only 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 was neither attributable to nor aggravated by military service. The opinion rendered by the Medical Board is extracted hereinbelow:

| PART VII<br>OPINION OF THE MEDICAL BOARD                                     |                               |                             |                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------|-------------------------------|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Please endorse diseases/disabilities in chronological order of occurrence |                               |                             |                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Disability                                                                   | Attributable to service (Y/N) | Aggravated by service (Y/N) | DETAILED JUSTIFICATION                                                                                                                                                                                                                                                                                                                                                                                                        |
| Primary Hypertension (Old)                                                   | NO                            | NO                          | Onset of disability Aug 2014 at New Delhi in peace area. Aggravation is conceded when onset occurs while serving in Field areas, HAA, CI OPS areas or prolonged effort service. It is held as NANA due to onset in peace. In the instant case, the onset of disability was in peace station. Hence disability is conceded as NANA by service in terms of Para in terms of Para 43 of Chapter VI of GMO MIL Pension 2002/2008. |

Notes: 1. A detailed justification regarding the board's recommendations or the entitlement for each disease / disability must be provided sequentially especially in NANA cases as per enclosed Appendix 'A'.  
2. In case of multiple disabilities or inadequate space, do not write over the opinion, an additional sheet should be attached instead, providing a detailed justification, which is authorised by the President and all members of the Medical Board.  
3. In case the medical board differs in opinion from the previous medical board, a detailed justification explaining the reasons to differ should be brought out clearly.  
4. A disability cannot simultaneously be both attributable to and aggravated by military service, only one or neither of which will apply.

13. The respondent was enrolled in the Indian Air Force on 10.09.1983 and the disease was discovered in 2014, when the respondent was serving in peace area. The Medical Board has recorded that aggravation is conceded when onset occurs while serving in field areas. It held that since the onset in this case was in peace area, therefore the disability was neither attributable



nor aggravated by military service. This reason ascribed by the Medical Board in identical facts has already been considered and rejected by the coordinate Bench in **Union of India v. Col. Balbir Singh (Retd.)** while examining the claim of entitlement under 2008 Entitlement Rules at paragraphs 61, 65, 79 and 80, which read as under:

*“61. According to Rule 1(b) of the Entitlement Rule, 2008, these Rules are to be read in conjunction with the GMO, 2008, as amended from time to time. Accordingly, a reading of the provisions of the GMO, 2008 assumes significance. Paragraph 43 of the GMO, 2008 is reproduced herein below:*

*“43. Hypertension - The first consideration should be to determine whether the hypertension is primary or secondary. If secondary, entitlement considerations should be directed to the underlying disease process (e.g. Nephritis), and it is unnecessary to notify hypertension separately. As in the case of atherosclerosis, entitlement of attributability is never appropriate, but where disablement for essential hypertension appears to have arisen or become worse in service, the question whether service compulsions have caused aggravation must be considered. However, in certain cases the disease has been reported after long and frequent spells of service infield/HAA/active operational area. Such cases can be explained by variable response exhibited by different individuals to stressful situations. Primary hypertension will be considered aggravated if it occurs while serving in Field areas, HAA, CIOPS areas or prolonged afloat service.”*

*(emphasis supplied)*

**65. Furthermore, from Paragraph 43 of the GMO, 2008, it is evident that cases of hypertension may arise due to the differing individual responses to stressful situations and can occur after prolonged and frequent spells of service in the field, high altitude, or operational areas.**

...

**79. Considering all the factors together, it is evident that the mere fact that the onset of the disease occurred during a peace area posting is not sufficient to negate the cumulative stress of military service, which can contribute to the development of diseases such as**



**Primary Hypertension, IHD etc. The RMB's opinion that the onset took place in a peace station and therefore the disease is not attributable to or aggravated by military service cannot be sustained.**

**80. Accordingly, we find that the respondents' claim for the disability pension on account of Primary Hypertension, could not be outrightly rejected solely on the basis of the place of the disease's manifestation. In addition thereto, the RMB was under a duty to identify the cause of the disease in its report. In this case, however, it has clearly failed to discharge the onus placed upon it by not providing cogent reasons."**

(Emphasis Supplied)

14. The coordinate Benches in the aforementioned judgments have held that it is for the medical board to ascertain and identify the cause, other than military service, to which the disease can be attributed. If no such casual connection is found to exist by the Medical Board, the Court held that the plea for disability pension cannot be rejected. (Re: **Dropadi Tripathi vs. Union of India**<sup>6</sup>). In this case as noted above, the Medical Board has not identified the cause for the disease. Thus, the respondent is entitled to disability element of pension as per 2008 Entitlement Rules, as the report of the Medical Board fails to give any cogent reasons for denying the respondent the said entitlement.

15. We therefore find no merit in this petition; the petition is dismissed.  
No costs.

**MANMEET PRITAM SINGH ARORA, J**

**V. KAMESWAR RAO, J**

**JANUARY 7, 2026/MG**

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<sup>6</sup> 2025: DHC: 8709-DB at paragraphs 13 and 14