



2026:DHC:243-DB



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

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Date of Decision : 12.01.2026+ **W.P.(C) 359/2026, CM APPL. 1767/2026 & CM APPL. 1768/2026**

UNION OF INDIA AND ORS

.....Petitioners

Through: Dr. Vijendra Singh Mahndiyan,
CGSC.

versus

EX LEM (P) SATISH KUMAR

.....Respondent

Through: Mr. Ved Prakash, Adv.

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****MANMEET PRITAM SINGH ARORA J. (ORAL)**

1. The present writ petition has been filed under Article 226 of the Constitution of India against the order dated 17.09.2024 passed by the Armed Forces Tribunal Principal Bench ('Tribunal') New Delhi in O.A No. 783/2022 titled as 'Ex Lem (P) Satish Kumar Vs. Union of India & Ors.'
2. The relevant facts, briefly stated, giving rise to the present writ petition are as under:
3. The Respondent was enrolled in the Indian Navy on 31.01.2006 and was discharged from service on 31.01.2021 upon completion of his contractual engagement, having rendered 15 years of qualifying service.



4. Prior thereto, a Release Medical Board was convened on 22.09.2020, which assessed the Respondent as suffering from “Generalised Seizure Disorder (ICD-10 Code G-40)”. The disability was assessed at 20% and was opined to be neither attributable to nor aggravated (‘NANA’) by military service, in terms of Paragraph 33 of Chapter VI of GMO-2008. The Medical Board recorded that the onset of the disability occurred in May, 2014 while the Respondent was posted at INS Circars, Visakhapatnam, which is a peace station. The Respondent was placed in low medical category S3A2(P) PMT with effect from 06.02.2019 for the said disease and was excused from BPET/PPT and other duties.

5. Subsequent to his discharge, the Respondent submitted a claim for grant of disability element of pension, which came to be rejected on 01.07.2021 by the Naval Pension Office, C/o INS Tanaji, on the ground that the disability had been adjudged as neither attributable to nor aggravated by service. Aggrieved thereby, the Respondent submitted a legal notice-cum-representation/appeal dated 03.08.2021 assailing the rejection of disability pension. As no relief was granted, the Respondent thereafter approached the Tribunal by filing Original Application No. 783 of 2022 on 08.04.2022.

6. By the impugned order dated 17.09.2024, the Tribunal held the Respondent is entitled to disability element of pension for the disability of Generalised Seizure Disorder, assessed at 20% for life, and directed that the same be rounded off to 50%, with effect from the date of discharge of the Respondent. The Tribunal referred to the judgments of the Supreme Court in



Dharamvir Singh v. Union of India and Ors.¹, and other judgments for granting the relief as claimed by the respondent herein.

7. Being aggrieved by the impugned judgement dated 17.09.2024 passed by the Tribunal, the Petitioner filed the present writ petition. The judgment examined in detail the contention of the Petitioner vis-à-vis onset of the disease at peace station as the reason for not attributing the disease to military service and categorically rejects the said reason at paragraph nos. 14 to 17 of the judgment.

8. The learned counsel for the petitioner contends that the Tribunal has overlooked 2008 Entitlement Rules, which govern attributability/aggravation, and no longer permit a blanket presumption in favour of the claimant. He states in the facts of this case, Respondent was discharged on 31.01.2021 and therefore the respondent would be governed by 2008 Entitlement Rules. He states that the impugned order incorrectly applies the presumption under the repealed 1982 Entitlement Rules, ignoring the amended regime under 2008 Entitlement Rules. He states that 2008 Entitlement Rules have done away with the general presumption to be drawn in order to ascertain the principle of 'attributable to or aggravated by military service'. He relied upon the findings of the Medical Board to contend that the disease was not attributable to the Military Service.

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.**

¹ 2013(7) SCC 361



Ex. Sub Gawas Anil Madso² and W.P.(C) 140/2024 titled Union of India vs. Col. Balbir Singh (Retd.)³ and other connected matters, which have conclusively held that even under 2008 Entitlement Rules, an officer who suffers from a disease with a disability of 20% and more 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 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 by the Medical Board in its report would not be sufficient, for the military department for denying the claim of disability pension. The burden to prove the disentitlement 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 causal 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 Others⁴**, wherein at paragraphs 45.1, 46 and 47, the Supreme Court held as under:

² 2025: DHC: 2021-DB

³ 2025: DHC: 5082-DB

⁴ 2025 SCC OnLine SC 895



“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 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 this background of law settled vis-à-vis 2008 Entitlement Rules we have examined 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., Generalised Seizure ICD No. 040 assessed at 20% for life rounded off to 50%. The petitioner has raised the issue of non-entitlement of the disability element of the pension on the sole ground that the Medical Board has held that the disease is not attributable to or aggravated by military service.

13. The Respondent was enrolled in the Indian Navy on 31.01.2006 and was discharged on 31.01.2021. There is no dispute that at the time of induction in service, the record of the officer did not contain any note to the effect that he was suffering from the said ailment. The onset of the disease was discovered in May 2014. The Medical Board recorded the reason that since the onset of the disability was while the Respondent was posted at INS Circars, Vizag which is a peace location the same is not attributable to military service. Significantly, the report records that the disease has not occurred due to any negligence by the officer/Respondent. The reason of onset at peace station has been expressly rejected by the coordinate Bench in



Col. Balbir Singh (Retd.) (supra)⁵ as a ground for denying attribution to military service.

The Medical Board has however not ascertained and identified a cause, other than military service to which the disease can be attributed. If no other causal connection for the disease has been found to exist by the Medical Board qua the Respondent, the plea of disability pension cannot be rejected by the Military establishment and the officer would be entitled to disability pension. (**Re: Dropadi Tripathi v. Union of India**⁶).

14. In view of the aforesaid findings, the Petitioner's challenge to the grant of disability pension is without any merit and there is no infirmity in the impugned order. As held above, the report of the Medical Board fails to give any cogent reasons for opining that the disease is not attributable to the military service and the respondent has therefore been rightly held entitled to disability element of pension as per the 2008 Entitlement Rules.

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 12, 2026/AJ

⁵ At paragraph nos. 67 to 74

⁶ 2025: DHC: 8709-DB at paragraphs 13 and 14