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

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Date of Decision : 13.01.2026+ **W.P.(C) 415/2026 & CM APPL. 1959/2026**

UNION OF INDIA & ORS.

.....Petitioners

Through:

Mr. Jagdish Chandra Solanki, CGSC,
Mr. Siddharth Bajaj and Mrs. Maanya
Saxena, Adv.

Sgt. Mritunjay and Sgt. Padam

Charan, DAV Legal Cell, Air Force.

versus

626111-K WO RODRIGUES RUDOLPH FRANCISRespondent

Through: None.

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

1. This petition has been filed challenging the order dated 19.05.2023 passed by the Armed Forces Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in Original Application No. 2083/2021 ('OA', for short), whereby the Tribunal has allowed the OA filed by the respondent with the finding in paragraph no.18, as under:-

"18. Thus, the OA 2083/2021 is allowed and application is held entitled to the grant of the disability element of pension Diabetes Mellitus @ 30%, assessed compositely @ 50% for life, which in terms of the verdict of the Hon'ble Supreme Court of India in Civil Appeal 418/2012 dated 10.12.2014 titled as UOI & Ors. Vs. Ramavtar, the said disability is rounded off the 50% from the date of discharge."



2. The only submission made by learned counsel for the petitioners is that the Tribunal has overlooked relevant Entitlement Rules, 2008 as it failed to reconcile its decision with amended Entitlement Rules, 2008, wherein the general presumption to be drawn in order to ascertain the principle of ‘*attributable to or aggravated*’ by military service has been done away with. He also states that the rounding-off the disability of 30%, assessed compositely at 50% for life is erroneous.

3. This Court had previously in the case of ***Union of India Others v. P Ex Hav Ram Kumar, 2026:DHC:197-DB*** had held as under:-

“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, 2025: DHC: 2021-DB and W.P.(C) 140/2024 titled Union of India vs. Col. Balbir Singh (Retd.) and other connected matters, 2025: DHC: 5082-DB, 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 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 in the 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 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, 2025 SCC OnLine SC 895 wherein at paragraphs 45.1, 46 and 47, the Supreme Court 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 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)

4. Keeping in view the aforesaid position of law, we shall examine the facts of this case.
5. The respondent was enrolled in the Indian Air Force on 31.12.1980 in fit medical category. He was discharged on 31.08.2019 on attaining the age of superannuation/ on fulfilling the conditions of enrollment after rendering 38 years 244 days of service.



6. It is to be noted that the respondent was detected to have Diabetes Mellitus Type-II and Dyslipidemia during AME and placed in medical classification A4G4(Temporary) (T-24) vide AFMSF-15 on 04.12.2012. He was again placed in medical classification A4G1 vide AFMSF-15 dated 04.10.2014. He was thereafter, periodically examined for the disability and was placed in medical classification A4G2 (Permanent) vide AFMSF-15 dated 04.10.2014. The Medical Board, however, assessed the disability of the respondent as neither attributable to nor aggravated by military service. The respondent was released from service in medical classification A4G4(Permanent) by the Medical Board held on 26.09.2018. The opinion of the Medical Board is as under:-

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 & period in Service
(ii) Diabetes Mellitus(OLD) ICD-E 11.0, Z 09.0	No	No	Yes	As per GMO military pension 2008 amendment chapter VI Para 26. Onset is at peace station and individual has been posted to peace station. Further there is no close time association with stress and strain of service and no delay in diagnosis. Hence, it is considered neither attributable nor aggravated by service.
Note: A Disability "Not Connected with Service" would be neither Attributable nor aggravated by Service.				

7. The percentage of disablement was opined by RMB is as under:-

3. What is present degree of disease/disablement as compared with a healthy person of the same age and sex?(Percentage will be expressed as Nil or as follows) 5%,10%,15% and thereafter in multiples of ten from 20% to 100%				
Disease/Disability (As numbered in Para I Part VI)	Percentage of disablement	Composite assessment for all disabilities (Max 100%) with duration	Disability Percentage Qualifying for Disability Pension with duration	Net Assessment Qualifying for disability Pension (Max 100%) with duration
2. DM Type-II (Old) ICD NO. E-11.0, Z09.0	30% (Thirty)	30%(Thirty) Life Long	N/A	N/A



8. Having perused the opinion of RMB, we are unable to agree with the submissions made by the learned counsel for the petitioners that the Tribunal has committed an error in coming to the conclusion, in the manner it has in the impugned order.

9. This we say so, for the reason that the Medical Board has mainly recorded the disease of the respondent and was unable to determine the cause of the disease. The Medical Board has neither ascertained nor identified the 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, clearly disability pension cannot be rejected and the personnel would be entitled to disability element in pension as held by this Court in of the case ***Dropadi Tripathi v. Union of India, 2025: DHC: 8709-DB***, in paragraph nos. 13 and 14 which we reproduced as under:-

“13. In our decision in Gwas Anil Madso, we have also noted in this context the regulations of the respondents themselves, particularly Rule 9 of the Entitlement Rules for Casualty Pensionary Awards, 1982, in which it is specifically noted that the onus to prove a causal connection between the disability and military service is not on the candidate but on the administration.

14. It is for the medical board to ascertain and identify the cause, other than military service, to which the ailment or disability can be attributed. If no such causal connection is found to exist by the medical board, or even by the specialist who has examined the candidate, the plea for disability pension cannot be rejected.”

10. At this juncture, we may also refer to the judgment of the Coordinate Bench of this Court in ***Union of India vs. Col. Balbir Singh (Retd.) and other connected matters, 2025: DHC: 5082-DB***, wherein this Court laid



emphasis on the RMB record to be clear and show cogent reasons for denying the entitlement of the disability element to pension. The relevant paragraphs of the judgment are, as under:-

*“50. In this regard, it is further relevant to note the observations of the Supreme Court in the **Rajumon T.M. v. Union of India & Ors.**, 2025 SCC OnLine SC 1064, the relevant portions of which reads as under:*

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25. We, therefore, hold that if any action is taken by the authority for the discharge of a serviceman and the serviceman is denied disability pension on the basis of a report of the Medical Board wherein no reasons have been disclosed for the opinion so given, such an action of the authority will be unsustainable in law.”

(Emphasis supplied)

51. In view of the above, it is essential for the Medical Boards to record and specify the reasons for their opinion as to whether the disability is to be treated as attributable to or aggravated by military service, especially when the pensionary benefits of the Force personnel are at stake.

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53. Particularly in this milieu, it is of paramount importance that Medical Boards record clear and cogent reasons in support of their medical opinions. Such reasoning would not only enhance transparency but also assist the Competent Authority in adjudicating these matters with greater precision, ensuring that no prejudice is caused to either party.

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56. It must always be kept in view that the Armed Forces personnel, in defending this great nation from external threats, have to perform their duties in most harsh and inhuman weather and conditions, be it on far-flung corner of land, in terrains and atmosphere where limits of mans survival are tested, or in air or water, where again surviving each day is a challenge, away



*from the luxury of family life and comforts. It is, therefore, incumbent upon the RMB to furnish cogent and well-reasoned justification for their conclusions that the disease/disability suffered by the personnel **cannot** be said to be attributable to or aggravated by such service conditions. **This onus is not discharged by the RMB by simply relying on when such disability/disease is noticed first.***

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*77. **Thus, in view of the above, the RMB must not resort to a vague and stereotyped approach but should engage in a comprehensive, logical, and rational analysis of the service and medical records of the personnel, and must record well-reasoned findings while discharging the onus placed upon it.***

(Emphasis Supplied)

11. We may also refer to the latest judgment of the Supreme Court in the case of *Bijender Singh v. Union of India and Others*, 2025 SCC OnLine SC 895 wherein at paragraphs 45.1, 46 and 47, the Supreme Court 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 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)

12. Suffice to state, the Supreme Court in the judgment has held that, if



the report of the Medical Board fails to give any cogent reason for finding that the disease is neither attributable to nor aggravated by the military service as is the case here and also does not give reasons, that the disease is attributable to non-military reasons, the respondent shall be entitled to disability element in pension as per Entitlement Rules, 2008, by the Tribunal.

13. In view of our aforesaid conclusion, the petitioners' challenge to the grant of disability pension by the Tribunal, is without any merits.

14. Even the submission made by the learned counsel for the petitioners against the rounding-off the disability element of pension at 30% compositely at 50% for life cannot be agreed to, in view of the judgment of the Supreme Court in *Bijender Singh (Supra)*. The Tribunal in this aspect has rightly relied upon the judgment of the Supreme Court in *Union of India & Ors. v. Ram Avtar, Civil Appeal No. 418/2012* dated 10.12.2014.

15. In view of the above, the petition along with pending application is dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 13, 2026

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