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

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Date of Decision : 03.02.2026

+ **W.P.(C) 560/2026**

UNION OF INDIA THROUGH MINISTRY OF DEFENCE

.....Petitioner

Through: Ms. Gauri Goburdhun, SPC, Major
Anish Muralidhar and Major Kanika
Sharma.

versus

NAIK DILWAR SINGH (RETIRED)

.....Respondent

Through: Mr. Nawneet Krishna Mishra, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

CM APPL. 2759/2026 (Exemption)

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

W.P.(C) 560/2026, CM APPL. 2760/2026

3. This is a writ petition filed under Article 226 of the Constitution of India against the order dated 28.03.2024 ['impugned order'] passed by the Armed Forces Tribunal Principal Bench, New Delhi ['Tribunal'] in Original Application ['O.A.'] No. 1094/2023 titled as **Naik Dilwar Singh (Retd.) v. Union of India and Ors.**, wherein the Respondent has been granted the



benefit of the disability element of pension for Primary Hypertension assessed at 30% for life, rounded off to 50% for life, from the date of his retirement from the service.

4. The facts giving rise to the present petition are that the Respondent was discharged from the service on 31.08.2022.

5. The Release Medical Board [‘RMB’] held on 07.06.2022 assessed the disability i.e., Primary Hypertension at 30% for life. The RMB opined that since the onset of the disease was at the time when the Respondent was serving at the peace station i.e., in February 2020 at Ranikhet, Uttarakhand, the aforesaid disabilities were neither attributable to nor aggravated [‘NANA’] by the military service.

6. The Respondent’s claim of disability pension was rejected by the Petitioners vide letter dated 18.08.2022. The Respondent sent a legal notice dated 06.03.2023 to the Petitioner no. 3 seeking benefits of disability element.

7. In these facts, the Respondent filed O.A. No. 1094/2023 before the Tribunal for the grant of disability element of pension. By the impugned order, the Tribunal after referring to the judgments of the Supreme Court in **Dharamvir Singh v. Union of India and Ors.**¹ and **Union of India v. Ram Avtar**² granted the relief of disability pension to the Respondent.

8. The submissions made by the learned counsel for the Petitioners 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 case the hon’ble Supreme Court was concerned with the Entitlement Rules

¹ 2013 (7) SCC 361

² 2014 SCC OnLine SC 1761



for Casualty Pensionary Awards, 1982 [‘Entitlement Rules, 1982’], whereas the case of the Respondent needs to be considered under the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 [‘Entitlement Rules, 2008’].

8.1 She contends that the Tribunal has overlooked the Entitlement Rules, 2008, which govern attributability and aggravation and no longer permit a blanket presumption in favour of the claimant/officer; and since the RMB has opined the disease to be NANA, the Tribunal could not have presumed a causal connection between the disease and the service. She states in the facts of this case, Respondent was discharged from services on 31.08.2022 and therefore, the Respondent would be governed by Entitlement Rules, 2008. She states that the impugned order incorrectly applies the presumption under the repealed Entitlement Rules, 1982, ignoring the amended regime under Entitlement Rules, 2008. She states that the Entitlement Rules, 2008, have done away with the general presumption to be drawn to ascertain the principle of ‘attributable to or aggravated by military service’.

9. Having perused the reasons recorded in the opinion of the RMB, we are unable to agree with the submissions made by the learned counsel for the Petitioners that the Tribunal committed any error in granting relief to this Respondent.

10. In another petition, i.e., 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 Madso³ and W.P.(C) 140/2024 titled Union of India vs. Col. Balbir Singh (Retd.) and other connected matters⁴, which have conclusively held that even under Entitlement Rules, 2008 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 judgments emphatically hold that even under the Entitlement Rules, 2008, the onus to prove a causal connection between the disability and military service is not on the officer but on the administration. The Entitlement Rules, 2008, however, contemplate that in the event the Medical Board concludes that the disease, though contracted during the tenure of military service, was NANA 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 of the Medical Board opining ‘ONSET IN PEACE STATION’ would not be sufficient for the military department to deny the claim of disability pension; and rejected the opinions of the Medical Board. The judgments hold that the burden to prove the disentitlement of pension therefore remains on the military department even under the Entitlement Rules, 2008; and emphasise on the significance of the Medical Board giving specific reasons to justify their opinion for denial of this beneficial provision to the officer.

11. For reference, we also note that the Supreme Court in its recent

³ 2025: DHC: 2021-DB

⁴ 2025: DHC: 5082-DB



judgment in the case of **Bijender Singh vs. Union of India**⁵ has reiterated that it is incumbent upon the Medical Board to furnish reasons for opining that a disease is NANA and the burden to prove the same is on the Military Establishment.

12. The reasons to be recorded by the Medical Board has been succinctly explained by the Supreme Court in another recent decision of **Rajumon T.M. v. Union of India**⁶ to state that merely stating an opinion, such as ‘CONSTITUTIONAL PERSONALITY DISORDER’ without giving reasons or causative factors to support such an opinion, is an unreasoned medical opinion. The Court explained that the said opinion of the Medical Board was merely a conclusion and would not qualify as a reasoned opinion for holding the disease/disability to be NANA.

13. In this background of settled law holding that the onus to prove disentitlement remains heavy on military establishment vis-à-vis Entitlement Rules, 2008, we have examined the facts of this case.

14. The Respondent was enrolled in the Army (The Garhwal Rifles) on 06.10.2003 and the disease/disability Primary Hypertension was discovered in the year 2020 [after 17 years of service], while he was serving and therefore, the disease has indisputably arisen during his military service. The Respondent was discharged from service on 31.08.2022, as the RMB recommended his release on account of his low medical category.

15. The Petitioners have raised the issue of non-entitlement of the disability element of the pension only on the ground that the Medical Board has held that the disease is NANA by the military service. The opinion

⁵ 2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47

⁶ 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36



rendered by the RMB is extracted as under: -

PART VII 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
(a) PRIMARY HYPERTENSION (ICD-I10)	NO	NO	NANA, as onset in peace not associated with any factor conceded to mil service vide para- 43, of Ch-VI of GMO-2008.
(b) POLYCYTHEMIA (ICD-D-45)	NO	YES	Aggravation conceded, due to exposure to chronic hypoxemia associated with mil service as Onset in Cf Ops/Fd area.

Note: 1. A detailed justification regarding the board's recommendations on 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 paste over the opinion, an additional sheet should be attached instead, providing a detailed justification, which is authenticated 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 or aggravated by military service, only one or neither of which will apply

The relevant portion is pertaining to the opinion of the Medical Board for the disease of (a) Primary Hypertension.

16. The Petitioners contend that disease is NANA since the onset of the disease was at a peace station and that there was no stress of the military service.

This precise reason has been specifically rejected by the coordinate Bench of this Court in **Col. Balbir Singh (Retd.)** (supra)⁷ while granting disability pension to the officer suffering from Primary Hypertension, and has been held to be an invalid ground for denying attributability to the military service. The Court in the said decision after taking note of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010 held that the fact that the disability occurred in normal peace



conditions is immaterial and by itself is not sufficient to opine NANA and to deny disability pension to the officer.

17. No other ground has been cited in the RMB report of the Respondent with regards to his disability i.e., Primary Hypertension for opining NANA. In fact, the RMB herein categorically records in response to the question no. 2 (a) and (b) that the disease(s) are not attributable to the officer's own negligence or misconduct, at internal page 8 of the RMB⁸. In these facts, since no other causal connection for the disease has been found to exist by the RMB, the claim of disability pension has been wrongly rejected by the Military establishment.

18. In view of the aforesaid findings, the Petitioners' challenge to the grant of disability element of pension to the Respondent, is without any merits. The Respondent has been rightly held to be entitled to the disability pension under the Entitlement Rules, 2008 by the Tribunal in the impugned order.

19. We therefore find no merit in this petition; the petition is dismissed.

20. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

FEBRUARY 03, 2026/IB

⁷ At paragraph nos. 66 to 74

⁸ Page 94 of the paper-book