



2026:DHC:1099-DB



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

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Date of Decision : 03.02.2026

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W.P.(C) 587/2026

UNION OF INDIA AND ORS.

.....Petitioners

Through: Ms. Gauri Goburdhun, SPC.

versus

EX SGT AJAY KHURANA

.....Respondent

Through: Ms. Deepika Sheoran, Mr. Baljeet Singh and Mr. Abhishek Gahlyan, 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. 2887/2026 (Exemption)**

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

W.P.(C) 587/2026, CM APPL. 2888/2026

1. This is a writ petition filed under Article 226 of the Constitution of India against the order dated 20.09.2023 ['impugned order'] passed by the Armed Forces Tribunal, Principal Bench, New Delhi ['Tribunal'] in Original Application ['O.A.'] No. 1267/2019 titled as **Ex Sgt Ajay Khurana v. Union of India & Ors.**, wherein the Respondent has been granted the benefit of the disability element of pension for Diabetes Mellitus Type-II (Old) at 20% rounded off to 50% for life, from the date of his retirement from the service i.e., 30.06.2017.



2. The facts giving rise to the present petition are that the Respondent was retired from service under the clause 'on fulfilling the conditions of enrolment'.
3. The Release Medical Board ['RMB'], held on 19.08.2016, assessed his disability i.e., Diabetes Mellitus Type-II (Old) at 20% for life. The RMB opined that since the onset of the disease was at the time when the Respondent was serving in the peace area i.e., in May 2011 at Thanjavur/47 Wing, Air Force and since Diabetes Mellitus Type II is a lifestyle disease, therefore, the aforesaid disability was neither attributable to nor aggravated ['NANA'] by the military service.
4. The Respondent's claim of disability pension was rejected by the Petitioner vide letter dated 29.11.2016, as the disability was opined NANA by the service. The Respondent's first appeal challenging the said refusal was rejected vide order dated 12.04.2019.
5. The Respondent filed the O.A. No. 1267/2019 before the Tribunal for the grant of disability element of pension. By the impugned order, the Tribunal while 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.
6. The only submission 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 Supreme Court was concerned with the Entitlement Rules for Casualty Pensionary Awards, 1982 ['Entitlement Rules, 1982'], whereas the case of the Respondent needs to be considered under the Entitlement Rules

¹ 2013 (7) SCC 361



for Casualty Pensionary Awards to Armed Forces Personnel, 2008 [‘Entitlement Rules, 2008’].

6.1 He contends that the Tribunal has overlooked the Entitlement Rules, 2008, which governs attributability and aggravation and no longer permit a blanket presumption in favour of the claimant 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. He states in the facts of this case, Respondent retired on 30.06.2017 and therefore, the Respondent would be governed by Entitlement Rules, 2008. He states that the impugned order incorrectly applies the presumption under the repealed Entitlement Rules, 1982, ignoring the amended regime under Entitlement Rules, 2008. He 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’.

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

8. 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 Madso**³ and W.P.(C) 140/2024 titled **Union of India vs. Col. Balbir Singh (Retd.) and other connected**

² 2014 SCC Onl ine SC 1761

³ 2025: DHC: 2021-DB



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’ or ‘LIFESTYLE DISORDER’ 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.

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

⁴ 2025: DHC: 5082-DB



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 to be NANA.

10. In this background of law settled with respect to onus remaining on military establishment vis-à-vis Entitlement Rules, 2008, we have examined the facts of this case. The opinion in the RMB relied upon by the Petitioners in these proceedings similarly fails the test of a reasoned opinion as stipulated in the aforesaid judgments of the Supreme Court and this Court.

11. The Petitioners have raised the issue of non-entitlement of the disability element of the pension only on the ground that the RMB has held that the disease is NANA by the military service. The opinion rendered by the RMB is extracted as under:

PART V
OPINION OF THE MEDICAL BOARD
(Not to be communicated to the individual)

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 / Specify condition and period in service
1. DIABETES MELLITUS TYPE -2 (OLD) Z 09.0	No	No	Yes	No, as disability is a lifestyle disease and has occurred while serving in peace area as per para 26 pg.no. 23 ch VI of GMO ver 2008

Note: A disability "Not connected with service" would be neither attributable nor aggravated by service.
(This is in accordance with instructions contained in "Guide to Medical Officers (Mil Pension-2002)

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



12. The Respondent was enrolled in the Indian Air Force on 30.06.1988 and the disease/disability Diabetes Mellitus Type II was discovered in the year 2011 [after 23 years of service], while he was serving at 47 Wg, AF, Thanjavur and therefore, the disease has indisputably arisen during his military service. The Respondent admittedly did not suffer any disability before joining the Air force. The Respondent was discharged from service on 30.06.2017, as the RMB recommended his release on account of his low medical category A4G2 (P). The Tribunal in the impugned order has rejected the argument of absence of stress and strain at Thanjavur and concluded that the duties carried out by the petitioner were strenuous. The relevant paragraph 13 of the impugned order reads as under:

“13. The disability of Diabetes Mellitus Type-II in respect of Ex Sgt Ajay Khurana even though had its origin in a peace area but the disability was due to the stress and strain of service which occurred during active service in adverse conditions which has not been refuted by the respondents. In the instant case, the applicant was enrolled in Indian Air Force on 30.06.1988 and after rendering 29 years of service, he was discharged from service on 30.06.2017. The onset of the disability was in May 2011 when the applicant was posted at 47 Wg, AF, Thanjavur as Air Field Safety Operator (AFSO) in Air Traffic Services. The AFSO trade is considered as one of the most strenuous duties in the world because all activities in this particular trade are unscheduled and need constant attention. In addition to this, the applicant was frequently detailed for orderly sergeant duties which involve night guard checks during odd hours that interrupted his normal diet and circadian rhythm and immensely affected him both physically and mentally. That these factors may have induced stress and strain on the applicant, cannot be overlooked. Furthermore in terms of Para 26, the GMO (MP) 2008 itself it has been stipulated that stress and strain is one of the known factors which can precipitate diabetes or cause uncontrolled diabetic state.”

Pertinently, the aforesaid reasons recorded in the impugned order has not been challenged by the Petitioner in this writ petition.

13. Learned counsel for the Petitioner by referring to RMB contends that since the onset of the disease was at a peace station, there was no stress of

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



the military service and the disease was due to the lifestyle disorder; therefore there is no causal connection between the disease and the service. These precise reasons have been specifically rejected by the coordinate Bench of this Court in **Col. Balbir Singh (Retd.)** (supra)⁷ and **Anil Madso** (supra)⁸ and have been held to be invalid grounds for denying attributability to the military service for the disease of Diabetes Mellitus Type II.

14. In fact, the coordinate Bench of this Court in **Union of India and Others v. Col. Koutharapu Srinivasa Retd.**⁹, has held that referring a disease as lifestyle disorder in the RMB will not prove/confirm that the disease was not attributable to military service. The Court opined that in case the lifestyle of the officer is the cause of the disease, the medical opinion must reflect the causative lifestyle factors (i.e., enlist the reasons for such an opinion).

In the present case, the RMB has merely classified the Respondent's disease of Diabetes Mellitus Type II as a lifestyle disease. The RMB says nothing about the specific lifestyle factors of the Respondent, which led to the cause of the disease.

In contra-distinction, the RMB herein categorically records in response to the question no. 2 that the disability did not exist before the Respondent entered military service and in response to question no. 5(a) and (b) that the disability is not attributable to the officer's own negligence or misconduct, at internal page 5 of the RMB¹⁰. The answers to this question show that the opinion of the RMB that it is a lifestyle disorder is a conclusion, which is negated and even otherwise not substantiated by any

⁷ At paragraph nos. 66 to 74

⁸ At paragraph nos. 82 to 84

⁹ 2025 SCC OnLine Del 4292 at paragraphs 5 and 16



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reasons.

15. In these facts, since no other causal connection for the disease has been identified and recorded by the RMB, we are in agreement with the Tribunal that the Respondent's claim of disability pension has been wrongly rejected by the Military establishment.

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

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

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

FEBRUARY 03, 2026/AM/hp

¹⁰ Page 69 of the paper-book