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

% *Date of Decision : 30.03.2026*

+ W.P.(C) 4061/2026 CM APPL. 19946-19947/2026

UNION OF INDIA & ORS.Petitioners

Through: Ms. Uma Prasuna Bachu, SPC

versus

EX JWO VIJAY SHANKAR

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

CM APPL. 19947/2026 (exemption)

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

W.P.(C) 4061/2026

3. This is a writ petition filed under Article 226 of the Constitution of India against the order dated 10.03.2025 ['impugned order'] passed by the Armed Forces Tribunal Principal Bench, New Delhi ['Tribunal'] in Original Application ['O.A.'] No. 1152 of 2021 titled as **Ex JWO Vijay Shankar v. Union of India & 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



discharge from the service.

4. The facts giving rise to the present petition are that the Respondent was discharged from the service on 31.01.2020 with permanent low medical category ['LMC'] A4G4 (P) after rendering a total 35 years and 06 days of regular service.

5. The Release Medical Board ['RMB'] held on 21.01.2020 assessed the disability i.e., Primary Hypertension at 30% for life and opined that since the onset of the disease was at the time when the Respondent was serving at the peace station i.e., in November 1999, at New Delhi, and also that the Respondent kept serving in peace area after the onset till retirement, hence, the aforesaid disability is neither attributable to nor aggravated ['NANA'] by the military service as per in terms of the Para 43 of Chapter VI of GMO 2008.

6. The Respondent's claim of disability pension was rejected vide letter dated 07.09.2021, as the disability was held to be NANA. The Respondent preferred First Appeal on 27.12.2021 which was also rejected vide letter dated 22.09.2022.

7. Subsequently, Respondent filed an O.A. No. 1152 of 2021 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 has granted the relief of disability pension to the Respondent.

8. The submission made by the learned counsel for the Petitioners is that

¹ 2013 (7) SCC 361

² 2014 SCC OnLine SC 1761



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 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.

8.2 She states in the facts of this case, Respondent was discharged from services on 31.01.2020 and therefore, the Respondent would be governed by Entitlement Rules, 2008.

8.3 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. In the facts of this case, since the Respondent took retirement from service on 31.01.2020, the Respondent's claim for disability pension would *indeed* be governed by the Entitlement Rules, 2008.

10. Nevertheless, having perused the reasons recorded in the RMB for opining NANA, 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.

11. 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 matters**⁴, 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 judgments hold that 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;

³ 2025: DHC: 2021-DB

⁴ 2025: DHC: 5082-DB



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.

12. On the issue of establishing causal connection of the disease with factors other than military service, we 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 causal connection (as other than military service) is on the Military Establishment.

The character of 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. The Supreme Court held 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 and thus invalid. The Supreme 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 on military establishment vis-à-vis Entitlement Rules, 2008 and the Medical Board must give cogent reasons for denying

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



attributability and aggravation, we have examined the facts of this case.

14. The Respondent was commissioned in the Indian Air force on 24.01.1985 and the disease of Primary Hypertension was discovered in the year 1999 [after 14 years of service], while he was serving and therefore, the disease has indisputably arisen during his military service. As noted above, the Respondent was discharged from service on 31.01.2020.

15. The Petitioners have 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 is NANA by the military service. The opinion rendered by the RMB, as reproduced in the impugned order, is extracted as under: -

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)	Reasons/causes/specific conditions and period in service
(a) Primary Hypertension (1-10)	NO	NO	The <u>onset of the disability was at peace area New Delhi/Nov 1999. Individual kept serving in peace area after the onset the onset till retirement.</u> There is no causal connection between the disability and the service environment. Hence, conceded NANA by mil service in terms of Para 43 of CH-VI Of GMO-2008.

[Emphasis Supplied]

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

This precise reason in the medical opinion 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 Division Bench 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 deny disability pension to the officer. The ratio of the said judgment is squarely applicable in the facts of this case.

17. No other reason has been cited in the RMB of the Respondent for opining NANA.

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, and the officer has been rightly held by the Tribunal to be entitled to disability pension. The Respondent is entitled to the disability pension as per Entitlement Rules 2008.

18. We also note that in exercise of the certiorari jurisdiction of this Court over the decision of the Tribunal, the limited parameters of the jurisdiction are delineated in the judgment of **Syed Yakoob v. K.S. Radhakrishnan**⁸. We have examined the impugned order within the said parameters and find no ground to interfere with the impugned order.

19. Additionally, we note that the impugned order is dated 10.03.2025

⁷ At paragraph nos. 66 to 74

⁸ (1963) SSC OnLine SC 24 at paragraph 7 and 8



and the petition has been filed after nearly a year, without any explanation for such a delay. The Petitioner was obliged to comply with the impugned order of the Tribunal within three (3) months with effect from 10.03.2025; however, the same has not been complied with till date. Keeping in view that the claim of disability pension is beneficial in nature, the Petitioner ought to have taken steps to file its challenge within a time bound period, and certainly before the period of three (3) months had lapsed. There is no explanation whatsoever for the delay in approaching this Court and presumably the order of Tribunal have also not been complied with. We thus, hold that filing of this petition is also barred by delay and laches.

20. 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 Petitioners are directed to comply with the order of the Tribunal without any further delay.

21. We therefore find no merit in this petition; the petition is dismissed. Pending application, if any, stands dismissed. No costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

MARCH 30, 2026/IB/rhc