COURT NO. 3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No.437/2020

Sgt Anjani Kumar Choudhary (Retd) ... Applicant

Versus

Union of India & Ors. … Respondents

For Applicant ~ Mr. Manoj Kr Gupta, Advocate
For Respondents ~ Ms. Nehal Jain, Advocate with Capt. Abhishek, OIC Legal, Army

CORAM :

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER(J)
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

O R D E R

OA 437/2020

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA praying to direct the respondents to accept the disabilities of the applicant as attributable to/aggravated by Air Force service and grant disability element of pension @20% rounded of to 50% with effect from the date of retirement of the applicant; along with all consequential benefits.

2. The applicant was enrolled in the Indian Air Force on 03.09.1996 and retired from service on 18.07.2016 under the clause on 'At his own request on transfer to pension establishment'. The RMB not solely on medical grounds was held dated 08.07.2016 and found the applicant fit to be released in low medical category A4G2 and suffering

from the ID – Primary Open Closure Glaucoma both eyes with laser PI done @20% for life with the RMB having opined the disability as being neither attributable to nor aggravated by military service.

3. The disability pension claim of the applicant was rejected vide AOC AFRO letter no. RO/3305/3Med/ dated 26.09.2016, which was communicated to the applicant vide letter no. Air HQ/99798/1/741667/07/16/DAV/DP/RMB dated 31.10.2016. The Applicant preferred a first appeal dated 15.04.2017 against the rejection of the disability claim, which was again rejected by Appellate Committee on the First Appeals vide letter no. Air HQ/99798/5/58/2018/741667/DP/AV-III dated 05.02.2019. The applicant preferred second appeal against the aforesaid rejection dated 03.08.2019 which was not adjudicated upon within the 6 months period. Aggrieved, the applicant has preferred this OA, which we take up for our consideration, in the interest of justice, as per Section 21(2) of the Armed Forces Tribunal Act, 2007.

Submissions on behalf of the Applicant

4. The applicant submitted that he has attained the present disability after serving for a long period of 13 years in A1G1 which makes it clear that the disease was not pre-existing and his disability was due to service, and that at the time of induction into the Indian Air Force, he was medically fit and after having

undergone a thorough medical examination at the Training Centre, he was posted to various places during his service.

5. Inter alia, the applicant has placed reliance on the verdict of the Hon'ble Supreme Court in ***Dharamvir Singh Vs UOI & Ors [(Civil Appeal No 4949/2013) 2013 AIR SCW 4236], UOI & Ors. Vs Rajbir*** in ***[Civil Appeal No. 2904/2011, decided on 13.02.2015]*** in the case ***of Sukhvinder Singh vs UOI & Ors [2014 STPL (Web) 468 SC]*** and in ***UOI &Ors vs Manjit Singh (AIR 2015 SC 2114),*** to contend to the effect that in as much as in the absence of any cogent reasons recorded by the Medical Board for the cause of the disability that had arisen during the course of service of the applicant and with which the applicant did not suffer at the time of enrolment into the Military Service, the same has to be presumed to have arisen in the course of military service. The applicant also submits that in terms of the verdict dated 10.12.2014 of the Hon'ble Supreme Court in ***UOI Vs Ram Avtar*** in Civil Appeal No.418/2012, the applicant is entitled to rounding off of the disability pension assessed @30% for life to 50% for life from the date of discharge.

<u>Submissions on behalf of Respondents</u>

6. The respondents through the counter affidavit dated 12.07.2021 filed on their behalf submit to the effect that as per Rule 153 of the Pension Regulations for Air Force, 1961 (Part-I), the

disability pension is granted to those who fulfill the following two criteria simultaneously:-

> *(i) Disability must be either attributable to or aggravated by service.*
> *(ii) Degree of disablement should be assessed at 20% or more.*

7. The respondents further place reliance on Para-5 of 'Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008, and submit that the mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service.

Consideration

8. On a consideration of the submissions made on behalf of either side, it is essential to observe that the factum that as laid down by the Hon'ble Supreme Court in ***Dharamvir Singh(Supra)***, a personnel of the Armed forces has to be presumed to have been inducted into military service in a fit condition ,if there is no note or record at the time of entrance in relation to any disability, in the event of his subsequently being discharged from service on medical grounds the disability has to be presumed to be due to service unless the contrary is established, - is no more ***res integra***.

9. The ratio of the verdicts in ***Dharamvir Singh*** vs ***UOI & Ors*** (supra), ***Sukhvinder Singh*** vs ***UOI & Ors*** (supra), ***UOI & Ors. vs Rajbir Singh*** (supra) and ***UOI & Ors*** v. ***Manjeet Singh (supra)***, as laid down by the Hon'ble Supreme Court are the fulcrum of the attributability.

10. It is pertinent to record that the judgements of this Tribunal adjudicated and allowed in consonance with the settled position laid down by Hon'ble Supreme Court in **Dharamvir Singh (Supra),** were assailed by the Respondents before Hon'ble Delhi High Court in ***Union of India v. Col Balbir Singh [WP (C) No. 140/2024; 2025: DHC: 5082-DB],*** wherein it was concluded as under:

> *44. For the purpose of further delving into the pleas raised by the parties, it is necessary to analyze the impact of the changes introduced by the new Entitlement Rules of 2008.*
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> *45. The Kerala High Court in Union of India & Ors v. Bhaskaran. N, 2024 SCC OnLine Ker 7023,while examining the Entitlement Rules, 2008, held as under:*
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> > *"45. By employing the word "ordinarily", the rule-making authority has obviously diluted the rigor of the burden which was on the establishment under the Rules of 1982. The intention is very clear that in all cases and under all circumstances it shall no longer be the burden of the establishment to show that the employee is not entitled for the benefit. In appropriate cases the employee shall discharge the onus of proof to seek the benefit. The learned Senior Central Government Counsel placed emphasis on this Rule and argued that the same has made a drastic change in the matter of onus of proof. According to the learned counsel, claimants cannot no longer raise a demand and leave it to the establishment to rebut. We shall now examine this contention. We note that the second part of Rule 7 opens with the expression "however" and the said sentence operates like a proviso carving out exception to the general rule found in the previous sentence. Reason for providing the exception is also clear from the latter sentence that; when claim is preferred after 15 years, by that time, the service documents of the claimant would be destroyed. Hence, ostensibly, the rule making authority altered the tenor of the rule regarding onus of proof in view of the fact that when belated claims are raised the establishment will not be in possession of the relevant records and in such situations the employee may obtain undue advantages. Unscrupulous persons waiting for destruction of records and raising claims thereafter is also a conceivable situation. Nonetheless, the intention of the rule makers regarding claims made within 15 years discernible from the language employed, is that the onus will continue to be primarily on the Department. We therefore hold with respect to*

Rule 7 of the Entitlement Rules of 2008 that the said provision does not exonerate the establishment totally from the burden of proof and in all cases in which the claim is raised within 15 years from the date of discharge/retirement/invalidment/ release, the onus of proof will be primarily on the Department. Only in cases wherein claims are raised after 15 years, the burden will be entirely on the claimant. While holding thus, we have kept in mind the observation of the Supreme Court in Union of India v. Vijay Kumar that the Entitlement Rules are beneficial in nature and ought to be liberally construed."

46. Furthermore, a similar issue came up before a Co-ordinate Bench of this Court in Union of India & Ors v. Ex Sub Gawas Anil Madso, 2025:DHC:2021-DB, wherein it was held as under:

"The effect of the change in policy in the 2008 Entitlement Rules

67. Much has been sought to be made, before us, about the fact that the presumption of attributability, contained in Rule 5 of the 1982 Entitlement Rules, has been done away with, in the 2008 Entitlement Rules. We have also, therefore, compared the Rules.

68. It is true that the 2008 Entitlement Rules does not contain any provision presuming that, if there is no mention of the physical disability or ailment at the time of induction of the officer in service, there would be a presumption that it was attributable to military service. To the extent that the Court cannot presume, based on the fact that the records at the time of induction of the officer in military service did not indicate that he was suffering from the ailment detected later, that the ailment was attributable to military service, the petitioners are correct in their contention.

69. What, however, turns on this?

71. Having said that, we are also conscious of the indisputable legal position that there is a difference between a disease, or infirmity, arising during military service and being attributable to military service. The fact that the disease has arisen during military service does not ipso facto mean, irrevocably, that it was attributable to military service. There can be no cavil with this proposition.

72. To that extent, the amended Rule 5 in the 2008 Entitlement Rules, which proclaims that "the mere fact that a disease has manifested during military service does not per se establish attributability or aggravation by military service" is unexceptionable.

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77. It goes without saying that the mere fact that the officer may have contracted the disease during military service would not suffer to entitle him to disability pension, unless the disease was attributable to the military service. The petitioners are also correct in their submission that, with the removal, in the 2008 Entitlement Rules, of the presumption that, if no note was entered in the record of the officer, at the time of his induction into military service, to the effect that he was suffering from the ailment, the ailment would be deemed to be attributable to military service."

(emphasis supplied)

47. This Court has thus observed that with the removal of the "presumption" under the 2008 Entitlement Rules, the absence of a note regarding the disease at the time of induction no longer automatically leads to the conclusion that the disease is attributable to military service, however, under Rule 7, the onus remains on the RMB to substantiate, through cogent reasoning in its Report, that although the disease was not present at the time of induction or at least not reported/discovered, it is still not attributable to military service. This implies that the RMB must identify some other factor, apart from military service, as the cause of the disease. The RMB cannot merely assert, without adequate reasons, that the disease, though contracted during military service, is not attributable to such service.

48. This Court further held as under:

"81. That responsibility has, however, to be assiduously discharged. The RMB has to record reasons as to why it arrives at the conclusion that the disease, forming subject matter of the claim for disability pension, contracted during the military service of the officer, was not attributable to such service in the absence of any such reason, the claim of the officer, disability pension, has necessarily to sustain.

82. In the facts of the present case, we do not deem necessary to state anything further. We have already emphasised the salient features of the report of the RMB in the case of the respondent. There is candid acknowledgement, in the Report, of the fact that the Type II DM, from which the Respondent suffered, was contracted 30 years after the Respondent had entered military service. The fact that the onset of the disease was during the course of military service of the Respondent is not, therefore, in dispute. Beyond this, there is precious little, in the Report of the RMB, to indicate that the military service of the respondent was not the cause of the disease. Inasmuch as the claim of the Respondent was not preferred more than 15 years after his

discharge, the onus to establish this fact continues to remain on the RMB, even under Rule 7 of the 2008 Entitlement Rules. A mere statement that the onset of the disease was during a peace posting is clearly insufficient to discharge this onus. The judgments of the Supreme Court are consistent on the fact that the report of the RMB is required to be detailed, speaking, and supported by sufficient cogent reasons. The RMB Report, in the case of the Respondent, clearly does not satisfy these conditions.

83. While we are not doctors, it is a matter of common knowledge that Diabetes is a disease which can be caused, and exacerbated, by stressful living conditions. The fact that the onset of the disease might have been while the officer was on a peace posting cannot, therefore, be determinative of the issue of whether the disease was, was not, attributable to military service. In such a case, the RMB has a greater responsibility to identify the cause of the disease, so that a clear case, dissociating the disease and its onset, from the military service of the claimant officer, is established.

84. This would be all the more so when, as in the case as the present, the disease has manifested 3 decades after the officer has been enrolled into military service. By certifying that the disease is not owing to any negligence on the part of the officer, there is an implied acknowledgement that the Respondent cannot be said to be responsible for the Type II DM from which he suffers. It was for the RMB, in such circumstances, to identify the cause of the disease, in its report. This, the RMB has, in the present case, clearly failed to do."

49. With the above observations, the Co-ordinate Bench of this Court dismissed the writ petitions involving similar issues. We find ourselves in agreement with the aforementioned observations, namely that although the Rule on presumption has been modified, the RMB ought to have provided specific reasons for not considering the disability/disease suffered by the respondents as attributable to or as aggravated by service, especially when the onus in this regard remains with the petitioners.

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:

"20. In our opinion, the requirement to give reasons by the Medical Board is crucial, critical, decisive and necessary for the purpose of granting or denying disability pension and it is not a mere formality, but a necessary material on the basis of which the pension sanctioning authority has to decide about the grant or refusal of disability pension.

21. As noticed above, it has been specifically provided under Clause (d) of Regulation 423 as quoted that the question as to whether the disability is attributable to or aggravated by service or not, will be decided as regards its medical aspects by the Medical Board and the Medical Board will specify reasons for their opinion and the question whether the cause and attendant circumstances can be attributed to service will be decided by the pension sanctioning authority.

22. Thus, this requirement to give reasons by the Medical Board about their opinion is in our view absolutely necessary as also required under Regulation 423(d) for the reason that the fate of the future career of the serviceman is going to be decided by the opinion of the Medical Board, which is to be treated as final as regards the cause of disability and the circumstances in which the disability originated. The continuation of the service of the concerned serviceman and as to whether he will be entitled to disability pension is dependent on the opinion of the Medical Board which is also to be treated as the final one.

23. Hence, the rules mandate giving of reasons by the Medical Board while rendering its opinion. The reasons given by the Medical Board would obviously be the basis for determination by the competent authority whether the serviceman would be discharged from service and whether he would get disability pension.

24. Accordingly, in our opinion, if the serviceman is discharged from service or denied the disability pension on the basis of a medical opinion which is devoid of reasons, it would strike at the root of the action taken by the authority and such action cannot be sustained in law.

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.

52. The position of law is well settled that the opinion given by the Medical Boards must be given due weightage and primacy in

determining whether the injuries or illness sustained during service were due to or aggravated by military service, and whether they contributed to the individual"s invalidation from service. In this context, it is relevant to note the decision of the Supreme Court in Narsingh Yadav v. Union of India, (2019) 9 SCC 667, which reads as under:

> *"21. Though, the opinion of the Medical Board is subject to judicial review but the courts are not possessed of expertise to dispute such report unless there is strong medical evidence on record to dispute the opinion of the Medical Board which may warrant the constitution of the Review Medical Board……"*

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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68. From a plain reading of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010, it is clear that whether a disability or death occurs in a Field/Active service area or under normal Peace conditions is immaterial.

69. Nonetheless, it must be noted that even in Peace Stations, military service is inherently stressful due to a combination of factors such as strict discipline, long working hours, limited personal freedom, and constant readiness for deployment. The psychological burden of being away from family, living in isolated or challenging environments, and coping with the uncertainty of sudden transfers or duties adds to this strain. Additionally, the toll of continuous combat training further contributes to mental fatigue. Despite the absence of active conflict or the challenges of hard area postings, the demanding nature of military life at peace stations can significantly impact the overall well-being of personnel.

70. Undisputably, even when not on the front lines or in hard areas, soldiers are aware that the threat is never far away. This environment, where danger is a constant reality for their peers and could become their own at any moment, creates a persistent state of mental and emotional strain that cannot be overlooked. Thus, military service, whether in peace locations or operational zones, inherently carries stress that may predispose Force personnel to medical conditions such as hypertension.

71. Moreover, it must be noted that lifestyle varies from individual to individual. Therefore, a mere statement that a disease is a lifestyle disorder cannot be a sufficient reason to deny the grant of Disability Pension, unless the Medical Board has duly examined and recorded particulars relevant to the individual concerned.

72. Having taken note of the aforesaid, it is pertinent to refer to the decision of the Co-ordinate Bench in Union of India & Ors. v. WO Binod Kumar Sah (Retd) in W.P (C) 3918/2025, wherein it has been held as under:

> *"13. The mere fact that para 43 states that, in the case of an officer who was serving in field areas, HAA, CIOPS or was on prolonged afloat service when hypertension was first detected, there would be a presumption that the hypertension was attributable to, or aggravated by, military service, does not imply, as a sequitur, that, in all other cases, the presumption would be otherwise. The contrapositive cannot be implied.*
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> *14. If an officer has undergone military service for 22 years before he was found suffering from hypertension, there can, in our reckoning, be no manner of doubt that an onerous duty would be cast on theRMB to establish that the hypertension was not attributable to, or aggravated by, military service. This would have to be established by cogent material, after garnering all requisite evidence. The Supreme Court has already laid down the nature of the exercise which has to be undertaken by the RMB in such cases."*

73. A reading of the above reinforces that disability pension cannot be denied solely on the ground that the onset of the disability occurred while the Force personnel were posted at Peace Station. Furthermore, it is evident that when Force personnel have rendered prolonged military service, there exists a substantial onus on the RMB to establish that the hypertension is not attributable to or aggravated by military service.

74. It is disheartening that members of our Armed Forces are being denied disability pension solely on the aforementioned ground. This overlooks the continuous physical and mental stress faced by soldiers, regardless of their location.

75. Moreover, the petitioners have ignored the fact that many of the respondents had previously served in field areas or hard areas, only to be diagnosed with their respective disabilities later during their peace postings. Denying benefits under such circumstances not only undermines their service but also fails to acknowledge the effect of their demanding careers. Thus, the possibility cannot be ruled out that these factors jointly and severally can become a chronic source of mental

stress and strain, precipitating various medical conditions such as hypertension etc.

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85. In view of the aforesaid, and considering the limited scope of the writ jurisdiction in reviewing the orders of the learned Tribunal, no case has been made out warranting interference by this Court with the decision of the learned Tribunal."

11. We find it essential to record that the judgement of Delhi High Court in ***UoI v. Col Balbir Singh (supra)*** was challenged before the Supreme Court in ***UoI & Ors. v. Col Balbir Singh [SLP (C) No. 30497/2025]*** wherein while dismissing the Special Leave Petition, Supreme Court observed that the detailed findings of Delhi High Court in aforesaid case do not warrant a re-look, and thus, no interference is required under Article 136 of the Constitution.

12. With respect to the specific disability of the applicant i.e. Primary Open Angle Glaucoma, we find that the Hon'ble Delhi High Court in the case of ***UoI & Ors. v. Sgt Pramendra Kumar Singh [2025:DHC:2435-DB; W.P. (C) No. 4359/2025]*** upholding the judgment of this Tribunal in ***Sgt Pramendra Kumar Singh v. UoI & Ors. [AFT PB; OA 240/2020]*** and on an examination has observed as under:

9. On a juxtaposed reading of the opinion of the RMB with para 35, it is clear that the finding that Glaucoma is not affected by service conditions, is incorrect. Para 35 itself envisages that an acute attack of Glaucoma being possible in the case of worry, fatigue or illness as also the possibility that it could be aggravated by military service. The instruction goes on to say that in the absence of evidence of undue mental or physical stress occasioned by war service, it cannot be considered that the disease is attributable to or has been aggravated by service factors. There is no opinion by the RMB to the effect that there is no evidence of any undue mental or physical stress, as the cause of the Glaucoma, from which the respondent was suffering.

10. No doubt such a finding has been entered by the Appellate Medical Board, whom the respondent approached in appeal. However, the Appellate Medical Board cannot be wiser than the RMB. The report of the RMB is to be accorded predominance and, in the absence of any of the factors which find place in Para 35 being mentioned in the opinion of the RMB, we are of the view that the RMB report did not make out a case of non attributability of the Glaucoma from which the respondent was suffering to the military service undergone by him. This is all the more so, as the respondent had undergone 18 years of military service, before the Glaucoma was detected.

11. We are not exercising appellate jurisdiction over the decision of the Tribunal. The Tribunal has taken a conscious decision to grant disability pension to the respondent. We exercise certiorari jurisdiction. Even if, another view is possible, that would not be a ground for us to interfere. Within the limits of the certiorari jurisdiction, we are of the opinion that no case is made out to interfere with the judgment of the Tribunal.

12. The judgment of the Tribunal is accordingly affirmed in its entirety. The writ petition is, accordingly, dismissed in limine.

Conclusion

13. Therefore, in line with the settled position laid down by the Apex Court in ***Dharamvir Singh (supra)*** and followed by Delhi High Court in ***Col Balbir Singh (supra)***, and ***Sgt Pramendra Kumar Singh (supra)***, the OA 347/2019 is allowed and the applicant is held entitled to the grant of the disability element of pension qua the disability of Primary Angle Closure Glaucoma B/E with Laser PI @ 20% 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***, is rounded off to 50% for life from the date of discharge. However, the arrears will be restricted to three years from the date of filing of this OA [Date of filing of OA: 24.02.2020] in view of the law laid down in the case of ***Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].***

14. The respondents are directed to calculate, sanction and issue the necessary Corrigendum PPO to the applicant within three months from the date of receipt of the copy of this order and in the event of default, the applicant shall be entitled to the interest @6% per annum on the arrears till the date of payment.

15. No order as to costs.

16. Pending miscellaneous application(s), if any, are disposed of.

Pronounced in the open Court on the 8th day of Dec 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[LT GEN CP MOHANTY]
MEMBER (A)

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