

COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

4.

OA 1523/2019 with MA 2459/2019

Ex JWO Ranjan Kumar Beuria ..... Applicant  
VERSUS  
Union of India and Ors. .... Respondents

For Applicant : Mr Baljeet Singh, proxy for Mr. Virender  
Singh Kadian, Advocate  
For Respondents : Mr. RS Chillar, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER  
21.11.2023

Vide our detailed order of even date, we have allowed the OA 1523/2019. Learned counsel for the respondents makes an oral prayer for grant of leave to appeal in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007 to assail the order before the Hon'ble Supreme Court. After hearing learned counsel for the respondents and on perusal of our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order to grant leave to appeal. Therefore, prayer for grant of leave to appeal stands declined.

\_\_\_\_\_  
(JUSTICE ANU MALHOTRA)  
MEMBER (J)

\_\_\_\_\_  
(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)

COURT NO. 2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA 1523/2019 with MA 2459/2019

Ex JWO Ranjan Kumar Beuria

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. V S Kadian, Advocate  
For Respondents : Mr. R S Chillar, Advocate

CORAM :

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

MA 2459/2019

This is an application filed under section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 1885 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of UoI & Ors Vs Tarsem Singh 2009(1)AISLJ 371 and in Ex Sep Chain Singh Vs Union of India & Ors (Civil Appeal No. 30073/2017 and the reasons mentioned, the MA 2459/2019 is allowed despite opposition from the respondents and the delay of 1885 days in filing the OA 1523/2019 is thus condoned. The MA is disposed of accordingly.

OA 1523/2019

The applicant vide the present OA makes the following prayers:

*“(a) Quash and set aside the impugned letter No..Air HQ/99798/5/TBS/677758/Appeal/AV-III dated 23.08.2019. And/or*

*(b) Direct Respondents to treat the disabilities as attributable to or aggravated by military service and grant him disability element of pension alongwith benefits of boradbanding from 40% to 50% and/or*

*(c) Direct respondents to pay the due arrears of disability element of pension with interest @12% p.a. from the date of retirement with all the consequential benefits.*

*(d) Any other relief which the Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case along with cost of the application in favour of the applicant and against the respondents”*

2. The applicant was enrolled in Indian Air Force on 15.03.1994 and was discharged from service w.e.f. 30.06.2014 after completion of 20 years and 108 days of regular service in Low Medical Category(A4G2)(P). The Release Medical Board dated 08.08.2013 assessed the disabilities of ID((i) Diabetes Mellitus Type –II @20% for life and ID(ii) Primary Hypertension assessed @30% for life which were compositely assessed @40% for life but considered the same as neither attributable to nor aggravated by military service.

3. The opinion of the Medical Board in Part V of the RMB Proceedings was to the effect:-

“

<i>Disability</i>	<i>Attributable to service (Y/N)</i>	<i>Aggravated by service (Y/N)</i>	<i>Not connected with service (Y/N)</i>	<i>Reason/cause/Specific condition and period service (Y/N)</i>
<i>(a) TYPE 2 DIABETES MELLITUS TYPE s-II</i>	<i>NO</i>	<i>NO</i>	<i>YES</i>	<i>Onset of IDs in peace areas. There is no close time association with stress and strain of Fd, CI Ops, HAA,. Hence NANA vide Para 26 of Chap VII and Para 43 of Chap VII of GMO 2008</i>
<i>(b) PRIMARY HYPERTENSION</i>	<i>NO</i>	<i>NO</i>	<i>YES</i>	

”

The posting profile of the applicant is to the effect:

### PERSONAL STATEMENT

Details of Service(P-Peace OR F-Field/Operational/Sea Service

S.No.	From	To	Place	P/F/Ops/Sea service/oth
01	15 Mar 94	15 Mar 96	Bangalore	P
02	16 Mar 96	15 Jun 2000	Guwahati	P
03	15 Jun 2000	24 Jul 2002	Kalakunda	P



04	25 Jul 2002	05 Aug 2005	Naliya	P
05	06 Aug 2006	04 Aug 2010	Jodhpur	P
06	05 Aug 2010	Till date	Kalakunda	P
Give particulars of any diseases, wounds, or injuries from which you are suffering				
Illness, wound inju	First Stated Date and Place	Rank of Indl	Where treated	Approximate dates and periods treated
DM TYPE II	Apr 10	Sgt	MH Jodhpur	Approx 15 days
PRIMARY HYPERTENSION	Apr 10 Jodhpur	Sgt	MH Jodhpur	21 Mar 2010 to 2.8.2012

On adjudication, the AOC, AFRO upheld the recommendations of the the RMB and rejected the disability pension claim vide letter No. RO/3305/3/Med dated 16.12.2013 and the outcome to this effect was communicated to the applicant vide letter No.Air HQ/99798/1/763051/06/DAV/DP/RMB dated 20.12.2013.

#### CONTENTIONS OF THE PARTIES

4. The applicant submits he joined the Indian Air Force in a fit medical condition and no note of any disability was recorded in the service documents at the time of enrolment. The applicant submits that he served the Air Force at various places in different environmental and service conditions in his prolonged service and any disability arisen during the course of service ought to be deemed to be attributable to or aggravated by military service and the Hon'ble Supreme Court in a catena of judgments had held that if a person who joins military service in a fit medical condition and retires with a disability, the same is to be

deemed to be due to military service and is required to be compensated by the grant of disability element of pension. The applicant further submits that his services were cut short due to the low medical category but the Medical Authorities failed to ponder over the entire facts and circumstances that Air Force service is a disciplined and stressful, different from civil service whether it be in a peace station or in a hard station.

5. The applicant placed reliance on the verdict of the Hon'ble Supreme Court in *Dharamvir Singh vs UOI & Ors* (Civil Appeal No. 4949/2013) (2013) 7 SCC 316, wherein it has been observed that the disability is 'attributable to or aggravated by military service' to be determined under the 'Entitlement Rules for Casualty Pensionary Awards, 1982' as shown in Appendix-II, the Government of India, Ministry of Defence letter No. 1(1)/81/D(Pen-C) dated 20.06.1996 and 'General Rules of Guide to Medical Officers (Military Pension) 2002', the verdict of the Hon'ble Supreme Court in *Sukhvinder Singh vs UOI & Ors*, dated 25.06.2014 reported in 2014 STPL (Web) 468 SC, to contend to the effect that in as much as the disability of the applicant was not recorded at the time of recruitment it must be presumed to have been caused subsequently and has to be held to be attributable to and aggravated by military service. *Inter alia*, the applicant has sought the rounding of the disability (40% to be rounded off to 50%) in terms of the verdict of the Hon'ble Supreme Court *UOI & Ors vs Ram Avtar* (Civil Appeal No. 418/2012) dated 10.12.2014.

6. The respondents through the counter affidavit dated 03.11.2020 submit that the disabilities of ID (i) Diabetes Mellitus Type-II and ID(ii) Primary Hypertension were compositely assessed @40% for life by the Release Medical Board and the recommendations of the RMB were also upheld by the AOC, AFRO and submit that since the applicant does not fulfil the eligibility conditions in terms of Rule 153 of Pension Regulations for the Indian Air Force, 1961 (Part-I) which are to the effect:

*“(i) Disability must be either attributable to or aggravated by service.*

*“(ii) Degree of disablement should be assessed @20% or more”*

the applicant is not entitled for disability element of pension and the question of its rounding off does not arise.

#### **ANALYSIS**

7. 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 of 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*.

Para 43 of the GMO (Military Pension) 2008 is as under:

*“43. Hypertension- The first consideration should be to determine whether the hypertension is primary or secondary. If secondary, entitlement considerations should be directed to*

*the underlying disease process (e.g. Nephritis), and it is unnecessary to notify hypertension separately. As in the case of atherosclerosis, entitlement of attributability is never appropriate, but where disablement for essential hypertension appears to have arisen or become worse in service, the question whether service compulsions have caused aggravation must be considered. However, in certain cases the disease has been reported after long and frequent spells of service in field/HAA/active operational area. Such cases can be explained by variable response exhibited by different individuals to stressful situations. Primary hypertension will be considered aggravated if it occurs while serving in Field areas, HAA, CIOPS areas or prolonged afloat service."*

8. In relation to the disability of Diabetes Mellitus Type-II, it is essential to observe that vide the verdict of the Hon'ble Supreme Court in Civil Appeal no. 5970/2019 titled as ***Commander Rakesh Pande vs UOI & Ors.***, dated on 28.11.2019, wherein the applicant thereof was suffering from Non-Insulin Dependent Diabetes Mellitus(NIDDM) and Hyperlipidaemia the grant of disability pension for life @ 20% broad banded to 50% for life was upheld by the Hon'ble Supreme Court.

9. Para 26, Chapter V of the Guide to Medical Officers (Military Pensions), 2008, is as under:-

***"26. Diabetes Mellitus***

*This is a metabolic disease characterised by hyperglycemia due to absolute/relative deficiency of insulin and associated with long term complications called microangiopathy (retinopathy, nephropathy and neuropathy) and macroangiopathy.*

*There are two types of Primary diabetes, Type 1 and Type 2. Type 1 diabetes results from severe and acute destruction of Beta cells of pancreas by autoimmunity brought about by various infections including viruses and other environmental toxins in the background of genetic susceptibility. Type 2 diabetes is not HLA-linked and autoimmune destruction does not play a role.*

*Secondary diabetes can be due to drugs or due to trauma to pancreas or brain surgery or otherwise. Rarely, it*

*can be due to diseases of pituitary, thyroid and adrenal gland. Diabetes arises in close time relationship to service out of infection, trauma, and post surgery and post drug therapy be considered attributable.*

*Type 1 Diabetes results from acute beta cell destruction by immunological injury resulting from the interaction of certain acute viral infections and genetic beta cell susceptibility. If such a relationship from clinical presentation is forthcoming, then Type 1 Diabetes mellitus should be made attributable to service. Type 2 diabetes is considered a life style disease. Stress and strain, improper diet non-compliance to therapeutic measures because of service reasons, sedentary life style are the known factors which can precipitate diabetes or cause uncontrolled diabetic state.*

*Type 2 Diabetes Mellitus will be conceded aggravated if onset occurs while serving in Field, CIOPS, HAA and prolonged afloat service and having been diagnosed as Type 2 diabetes mellitus who are required serve in these areas.*

*Diabetes secondary to chronic pancreatitis due to alcohol dependence and gestational diabetes should not be considered attributable to service."*

10. As per the amendment to Chapter VI of 'Guide to Medical Officers(Military Pensions), 2008, Para 26 thereof Type 2 Diabetes Mellitus is to be conceded as aggravated if the onset occurs while serving in Field/ CIOPS/HAA/prolonged afloat service and having been diagnosed as ' Type II Diabetes Mellitus' who are required to serve in these areas. Furthermore, inter alia stress and strain because of service reasons are stated therein to be known factors which can precipitate diabetes or cause uncontrolled diabetic state.

11. In view of the guidelines laid down vide the verdict of the Hon'ble Supreme Court in *Dharamvir Singh Vs. Union of India & Ors.*(Supra)

and the factum that the non-existence of the ID of Hypertension at the time when the applicant joined military service is not refuted by the respondents, the contention of the respondents that the disability of hypertension assessed has been rightly opined by the Release Medical Board and the AFCA at 30% as neither attributable to nor aggravated by military service,~ cannot be accepted.

12. It is essential to observe that the verdict of the Hon'ble Supreme Court in *Rajbir Singh* (supra) vide Paras 12 to 15 is to the effect:-

*"12. Reference may also be made at this stage to the guidelines set out in Chapter-II of the Guide to Medical Officers (Military Pensions), 2002 which set out the "Entitlement: General Principles", and the approach to be adopted in such cases. Paras 7, 8 and 9 of the said guidelines reads as under:*

*"7. Evidentiary value is attached to the record of a member's condition at the commencement of service, and such record has, therefore, to be accepted unless any different conclusion has been reached due to the inaccuracy of the record in a particular case or otherwise. Accordingly, if the disease leading to member's invalidation out of service or death while in service, was not noted in a medical report at the commencement of service, the inference would be that the disease arose during the period of member's military service. It may be that the inaccuracy or incompleteness of service record on entry in service was due to a non-disclosure of the essential facts by the member e.g. pre-enrolment history of an injury or disease like epilepsy, mental disorder, etc. It may also be that owing to latency or obscurity of the symptoms, a disability escaped detection on enrolment. Such lack of recognition may affect the medical categorisation of the member on enrolment and/or cause him to perform duties harmful to his condition. Again, there may occasionally be direct evidence of the contraction of a disability, otherwise than by service. In all such cases, though the disease cannot be considered to have been caused by service, the question of aggravation by subsequent service conditions will need examination.*

*[pic] The following are some of the diseases which ordinarily escape detection on enrolment:*

*(a) Certain congenital abnormalities which are latent and only discoverable on full investigations e.g. Congenital Defect of Spine, Spina bifida, Sacralisation,*



*(b) Certain familial and hereditary diseases e.g. Haemophilia, Congenital Syphilis, Haemoglobinopathy.*

*(c) Certain diseases of the heart and blood vessels e.g. Coronary Atherosclerosis, Rheumatic Fever.*

*(d) Diseases which may be undetectable by physical examination on enrolment, unless adequate history is given at the time by the member e.g. Gastric and Duodenal Ulcers, Epilepsy, Mental Disorders, HIV Infections.*

*(e) Relapsing forms of mental disorders which have intervals of normality.*

*(f) Diseases which have periodic attacks e.g. Bronchial Asthma, Epilepsy, Csom, etc.*

*8. The question whether the invalidation or death of a member has resulted from service conditions, has to be judged in the light of the record of the member's condition on enrolment as noted in service documents and of all other available evidence both direct and indirect.*

*In addition to any documentary evidence relative to the member's condition to entering the service and during service, the member must be carefully and closely questioned on the circumstances which led to the advent of his disease, the duration, the family history, his pre-service history, etc. so that all evidence in support or against the claim is elucidated. Presidents of Medical Boards should make this their personal responsibility and ensure that opinions on attributability, aggravation or otherwise are supported by cogent reasons; the approving authority should also be satisfied that this question has been dealt with in such a way as to leave no reasonable doubt.*

*9. On the question whether any persisting deterioration has occurred, it is to be remembered that invalidation from service does not necessarily imply that the member's health has deteriorated during service. The disability may have been discovered soon after joining and the member discharged in his own interest in order to prevent deterioration. In such cases, there may even have been a temporary worsening during service, but if the treatment given before discharge was on grounds of expediency to prevent a recurrence, no lasting damage was inflicted by service and there would be no ground for admitting entitlement. Again a member may have been invalided from service because he is found so weak mentally that it is impossible to make him an efficient soldier. This would not mean that his condition has worsened during service, but only that it is worse than was realised on enrolment in the army. To sum up, in each case the question whether any persisting deterioration on the available [pic]evidence which will vary according to the type of the disability, the consensus of*

*medical opinion relating to the particular condition and the clinical history."*

*13. In Dharamvir Singh's case (supra) this Court took note of the provisions of the Pensions Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers to sum up the legal position emerging from the same in the following words:*

*"29.1. Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).*

*29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].*

*29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).*

*29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. [pic] 29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)].*

*29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."*

*14. Applying the above principles this Court in Dharamvir Singh's case (supra) found that no note of any disease had been recorded at the time of his acceptance into military service. This Court also held that Union of India had failed to bring on record any document to suggest that Dharamvir was under treatment*



for the disease at the time of his recruitment or that the disease was hereditary in nature. This Court, on that basis, declared Dharamvir to be entitled to claim disability pension in the absence of any note in his service record at the time of his acceptance into military service. This Court observed:

*"33. In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of the Entitlement Rules for Casualty Pensionary Awards, 1982, the appellant is entitled for presumption and benefit of presumption in his favour. In the absence of any evidence on record to show that the appellant was suffering from "generalised seizure (epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service."*

15. The legal position as stated in Dharamvir Singh's case (*supra*) is, in our opinion, in tune with the Pension Regulations, the Entitlement Rules and the Guidelines issued to the Medical Officers. The essence of the rules, as seen earlier, 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 service if there is no note or record to the contrary made at the time of such entry. More importantly, in the event of his subsequent discharge from service on medical ground, any deterioration in his health is presumed to be due to military service. This necessarily implies that no sooner a member of the force is discharged on medical ground his entitlement to claim disability pension will arise unless of course the employer is in a position to rebut the presumption that the disability which he suffered was neither attributable to nor aggravated by military service. From Rule 14(b) of the Entitlement Rules it is further clear that if the medical opinion were to hold that the disease suffered by the member of the armed forces could not have been detected prior to acceptance for service, the Medical Board must state the reasons for saying so. Last but not the least is the fact that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability at times even before they completed their tenure in the armed forces. There may indeed be cases, where the disease was wholly unrelated to military service, but, in order that denial of disability pension can be justified on that ground, it must be affirmatively proved that the disease had nothing to do with such service. The burden to establish such a disconnect would lie heavily upon the employer for otherwise the rules raise a presumption that the deterioration in the health of the member

*of the service is on account of military service or aggravated by it. 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 he was upon proper physical and other tests found fit to serve in the army should rise as indeed the rules do provide for a presumption that he was disease-free at the time of his entry into service. That presumption continues till it is proved by the employer that the disease was neither attributable to nor aggravated by military service. For the employer to say so, the least that is required is a statement of reasons supporting that view. That we feel is the true essence of the rules which ought to be kept in view all the time while dealing with cases of disability pension."*

*(emphasis supplied)*

13. Furthermore, the 'Entitlement Rules for Casualty Pensionary Awards, to the Armed Forces Personnel 2008, which take effect from 01.01.2008 vide Paras 6, 7, 10, 11 thereof state as under:-

*"6. Causal connection:*

*For award of disability pension/special family pension, a causal connection between disability or death and military service has to be established by appropriate authorities.*

*7. Onus of proof.*

*Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/ invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.*

*10. Attributability:*

*(a) Injuries:*

*In respect of accidents or injuries, the following rules shall be observed:*

*(i) Injuries sustained when the individual is 'on duty', as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).*

*(ii) In cases of self-inflicted injuries while 'on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.*

*(b) Disease:*

(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-

- (a) that the disease has arisen during the period of military service, and
- (b) that the disease has been caused by the conditions of employment in military service.

(ii) Disease due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contracted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical course as determined by the competent medical authority.

(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture and current scientific medical application.

(iv) When the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.

#### 11. Aggravation:

A disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic conditions, environmental factors related to service conditions e.g. Fields, Operations, High. Altitudes etc.”

Thus, the ratio of the verdicts in *Dharamvir Singh vs UOI & Ors* (Civil Appeal No. 4949/2013) (2013) 7 SCC 316, *Sukhvinder Singh vs UOI & Ors*, dated 25.06.2014 reported in 2014 STPL (Web) 468 SC, *UOI & Ors. vs Rajbir Singh* (2015) 12 SCC 264 and *UOI & Ors versus Manjeet Singh* dated 12.05.2015, Civil Appeal no. 4357-4358 of 2015, as laid down by the Hon’ble Supreme Court are the fulcrum of these rules as well.



14. Furthermore, Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces 2010 which relates to 'Attributability to Service' provides as under:-

*"423.(a). For the purpose of determining whether the cause of a disability or death resulting from disease is or not attributable to Service. It is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a Field Area/Active Service area or under normal peace conditions. It is however, essential to establish whether the disability or death bore a causal connection with the service conditions. All evidences both direct and circumstantial will be taken into account and benefit of reasonable doubt, if any, will be given to the individual. The evidence to be accepted as reasonable doubt for the purpose of these instructions should be of a degree of cogency, which though not reaching certainty, nevertheless carries a high degree of probability. In this connection, it will be remembered that proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. If the evidence is so strong against an individual as to leave only a remote possibility in his/her favor, which can be dismissed with the sentence "of course it is possible but not in the least probable" the case is proved beyond reasonable doubt. If on the other hand, the evidence be so evenly balanced as to render impracticable a determinate conclusion one way or the other, then the case would be one in which the benefit of the doubt could be given more liberally to the individual, in case occurring in Field Service/Active Service areas.*

*(emphasis supplied),—*

and has not been obliterated.

15. Further, it has been observed by this Tribunal in a catena of cases that peace stations have their own pressure of rigours of military training and associated stress and strain of the service. It has also to be taken into consideration that most of the personnel of the armed forces have to work in the stressful and hostile environment, difficult weather conditions and under strict disciplinary norms. The onset of the disability of Diabetes Mellitus and the Primary Hypertension as

reflected in the RMB is in April 2010 at Jodhpur after 16 years of service in the Indian Air Force with several postings. The cumulative stress and strain of the service tenure where the applicant was exposed to severe working and climatic conditions cannot be overlooked.

### CONCLUSION

16. Thus, in terms of the verdicts of the Hon'ble Supreme Court in *Dharamvir Singh* (supra), *Rajbir Singh* (supra) and *Manjeet Singh* (supra) and a catena of orders of this Tribunal adverted to hereinabove and Para 26 and Para 43 of Chapter VI – Clinical Aspect of Certain Diseases as per the amendment to the Guide to Medical Officers (Military Pension) 2008, and the 'Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel 2008 and Regulation 423 of the Regulations for the Medical Services of the Armed Forces Personnel, 2010, the applicant is held entitled to the grant of the disability element of the pension for both the disabilities viz 'Hypertension' @ 30% for life and 'Diabetes Mellitus Type II' @ 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, in terms of the verdict of the Hon'ble Supreme Court in *Union of India & Ors Tarsem Singh*(2008) 8 SCC 648, the arrears for the grant of the disability element of pension shall be confined to commence from a period of three years prior to the institution of the present OA.

17. 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.

Pronounced in the open Court on the 21<sup>st</sup> day of November, 2023.

[REAR ADMIRAL ~~DIHREN VIG~~  
MEMBER (A)]

[JUSTICE ANU MALHOTRA]  
MEMBER (J)]

/chanana/