COURT NO. 1

ARMED FORCES TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA 1168/2022

Col Sumeet Malhan (Retd.) ... **Applicant**

Versus

Union of India & Ors. ... **Respondents**

For Applicant : Ms. Sangeeta Tomar, Advocate

For Respondents : Shri Anil Gautam, Sr. CGSC

CORAM :

HON'BLE JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

O R D E R

This application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant, a retired Col of the Indian Army, who is aggrieved by the rejection of his claim for disability pension. The applicant has made the following prayers:-

(a) Direct the respondents to grant disability element by conceding his disability as being attributable/aggravated by military service.

(b) Direct the respondents to broad band the disability of the applicant from 20% to 50%;

(c) Direct the respondents to pay the entitlement of the applicant along with an interest of 12% per annum.

(d) Any other order as may be deemed fit and proper in the facts and circumstances of the case.

Brief Facts of the Case

2. The applicant was commissioned into the Army on 09.12.1995 and was promoted to the rank of Col w.e.f. 01.01.2013. The applicant prematurely retired at his own request on 16.01.2019. On 17.10.1997, while on leave and travelling from his duty station in Kota, Rajasthan, to his leave station in New Delhi, the applicant was involved in an accident. The applicant sustained severe head injuries and a compression fracture of the LV3 (lower back). A medical board held at MH Kota on 19.11.1997 placed him in the low medical category SIHIA3 (T-24) temporary. Furthermore, a CoI was conducted by 2 Engineer Regiment on 03.12.1997 to investigate the circumstances of the accident. The applicant was upgraded to SHAPE 1 in January 1999 and continued to be in SHAPE 1 till 18.03.2017.

3. Prior to proceeding on premature retirement the applicant, was brought before a Release Medical Board on 15.01.2019. The RMB assessed his disability 'Compression Fracture LV3' @ 20% for life but held as is neither attributable to nor aggravated by military service. Furthermore, it is evident from the RMB proceedings that the applicant was in medical category S1H1A1P3(T24)E-1 since 31.10.2018 as per BH, Delhi Cantt letter no. 1240/MB/Cl-RE Cl/416/2018 (Annexure A-6 Colly page 35). Moreover

the applicant was in medical category SHAPE 1 till 18.03.2017 and the 1997 Injury Report (IAFY 2006) had also determined that the injury was not attributable to military service. Subsequently, the initial claim for disability pension was rejected by the competent authority vide letter dated 14.05.2019. The applicant then submitted a first appeal dated 30.08.2019, which was also rejected by the Appellate Committee on First Appeals (ACFA) through its letter dated 31.01.2020 based on the finding that the injury sustained on 17.10.1997 did not fall under the provisions of Para 9(d) of the Entitlement Rules (ER) 2008, as it was not considered "on duty" while travelling between the leave and duty stations. The applicant then submitted a second appeal dated 20.06.2020, which is still to be replied to by the respondents as it is still under consideration by the Second Appellate Committee on Pensions (SACP).

Arguments by the Counsel for the Applicant

4. The counsel for the applicant contended that the CoI had found that the applicant's injury, sustained in the 1997 accident, was accidental and not intentional, with no one to be blamed for it. The counsel argued that the Medical Board held on 04.06.1998 at MH Kota, had upgraded the applicant's medical category to S1H1A2 (T-24)P1E1 w.e.f. 06.05.1998,

subject to approval of boar by higher medical authority and the subsequent medical board held on 31.10.1998 at Command Hospital (WC Chandimandir) had upgraded the applicant to medical category S1H1A2 (T-12)P1E1 w.e.f. 22.10.1998, with employability restrictions. Later the applicant was upgraded to SHAPE-1 by the medical board held in January 1999.

5. The counsel further asserted that after being upgraded to SHAPE-1, the applicant was posted in operational areas between 07.01.2002 and 12.06.2008, and again between 29.11.2010 and 31.05.2012, followed by another posting from 28.05.2015 to 09.09.2016. During this time, while serving in Operation Rakshak in January 2009, the applicant sustained a shoulder injury that was declared as a battle casualty. It was also contended that while being posted in the high-altitude area of Misamari/Tawang, the applicant's old injury, Compression Fracture LV3, was aggravated, causing continuous back pain and subsequent postings in Rajasthan and Ladakh between 2012-2016 further worsened the condition.

6. The counsel argued that due to the aggravation of the old injury, the applicant reported to the MI Room at Army Camp on 02.08.2018 and he was subsequently referred to Base Hospital, Delhi Cantt, where he was

placed in a lower medical category (P3/T-24) with certain employability restrictions. The applicant was to only do sedentary duties only and the applicant was also excused PT, BPET, Parade, Night Duties, and other strenuous activities. The counsel vehemently contended that the applicant, suffering from severe back pain due to the aggravated injury, applied for premature retirement, which was approved by the respondents on 14.12.2018 and subsequently the Release Medical Board held on 15.01.2019 assessed the applicant's disability at 20%, but wrongly concluded that the injury was "neither attributable to nor aggravated by military service." The counsel asserted that this conclusion was contrary to the medical guidelines, particularly Para 51, which clearly establish that the old injury was aggravated by the applicant's strenuous postings.

7. The counsel emphasised that the disability Compression Fracture LV3, sustained while on officially sanctioned leave and travelling from duty station to leave station, has a causal connection with the applicant's military service. As such, it should be considered attributable to military service. The counsel further contended that the applicant was entitled to the broad-banding of his disability from 20% to 50%, as per the Hon'ble Supreme Court's judgement in ***Union of India vs. Ram Avtar*** (Civil

Appeal No. 418 of 2012, decided on 10.12.2014). The counsel further stated that the applicant also seeks war injury pension, not merely disability pension, based on the facts and grounds stated in the OA.

8. Further the counsel relied on the following judgements:

(i) ***Veer Pal Singh vs. Secretary, Ministry of Defence*** [(2013) 8 SCC 83];

(ii) ***Madan Singh Shekhawat vs. Union Of India & Ors.*** decided on 17.08.1999 [1999 (6) SCC 459];

(iii) AFT (PB) order dated 09.02.2016 in O.A No 603/2014 titled ***Maj (Retd) Charanjit Singh Medi vs. Union of India and Ors*** [upheld by Hon'ble Supreme Court vide its order dated 11.09.2017 in Diary No (s) 25998/2017].

(iv) AFT (RB) Lucknow order dated 19.02.2021 in ***Ex. Nk (ACP Hav) Pandu Kumar Reddy, (No. 14445968F) vs. Union of India*** [OA 443/2019]

Arguments by the Counsel for the Respondent

9. The counsel for the respondents contended that the entitlement to disability pension is governed by Regulation 81(a) of the Pension Regulations for the Army, 2008, Part I (PRA). According to this provision, service personnel who are invalided from service due to a disability

attributable to or aggravated by military service may be granted a disability pension comprising a service element and a disability element. It was further asserted that officers in a low medical category who retire upon superannuation or completion of tenure are also eligible for disability pension under Regulation 37 of the PRA.

10. The counsel vehemently argued that as per Regulation 50 of the Pension Regulations for the Army, 1961, Part-I, officers who voluntarily or prematurely retire are not eligible for disability pension. However, the VIth CPC recommendations led to a policy change, as per GoI, MoD letter dated 29.09.2009. This policy states that Armed Forces personnel retained in service despite a disability attributable to or aggravated by military service, and who have opted not to receive a lump-sum compensation, may be granted a disability element at the time of retirement, even if voluntary. This was extended to pre-2006 retirees through a subsequent MOD letter dated 17.05.2017.

11. The counsel contended that the applicant resides in Gurugram, Haryana, which falls outside the territorial jurisdiction of this Hon'ble Armed Forces Tribunal (Principal Bench) in New Delhi, making the present OA liable to dismissal for lack of territorial jurisdiction. The counsel further

asserted that the applicant failed to disclose that in the CoI proceedings, the CO of 2 Engr Regt had opined that the injury sustained by the officer was not attributable to military service.

12. The counsel argued that the medical board, composed of expert professionals, conducted a thorough physical examination and reviewed the applicant's medical reports before reaching its conclusions. If the applicant believed that his medical category was wrongly upgraded to SHAPE-1, he should have contested it at that time. The lack of any record showing such a contestation indicates that the applicant was raising this issue as an afterthought.

13. Moreover, the counsel drew our attention to the opinion of Lt Col Maneesha Sivani, AAG, AFMS (Pensions), who reviewed the case and noted that the applicant's compression fracture (LV3) was sustained in 1997 during a road traffic accident (RTA) and that he was later upgraded to SHAPE-1 in 1999. In 2018, MRI findings confirmed it as an old fracture without any significant neural compression. Despite his downgraded medical category in 2018, there was no progression of the condition to indicate that it was attributable to or aggravated by service. Therefore, the medical authorities recommended that the condition should not be

conceded as attributable to or aggravated by service under the relevant guidelines.

14. The counsel for the respondents contended that the rejection of the applicant's initial claim, as per the ACFA letter dated 31.01.2020, was based on the reason that as per Para 9(d) of the Entitlement Rules (ER) 2008, an individual is considered "on duty" when proceeding on leave or returning to duty from the leave station, including the journey between the two. However, in the applicant's case, the injury sustained on 17.10.1997, did not fall within the scope of Para 9(d) of ER-2008, leading to the rejection of the appeal. The counsel further asserted that the judgments cited by the applicant are distinguishable based on the specific facts and circumstances of this case and do not apply here.

Consideration

15. We have heard the learned counsel for the parties and have perused the records.

16. In the instant case, the applicant's disability i.e. Compression fracture LV3 has been assessed @20% for life by the RMB. Now the issue which is to be determined is whether there is causal connection between the

disability/injury and the military service so as to hold the injury/disability as either attributable to or aggravated by military service?

17. In the present case, the disability/ injury of the applicant was sustained when the applicant was on casual leave. The injury was sustained when the applicant was proceeding on leave from duty station. As per the Entitlement Rules, 2008, the relevant provisions relating to attributability of an injury while on leave are given as under:

> ***"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.***

18. From the aforesaid provisions, it is clear that the attributability should be conceded if the injury sustained when the individual is 'on duty' **provided a nexus between injury and military service is established**. With regard to deciding the causal connection between the injury and the military service, we may refer to the judgement of Hon'b1e

Supreme Court in ***Union of India & ors v. Baljit Singh,*** **(1996)11 SCC 315**, wherein it was observed that in each case where a disability pension is sought for and claim made, it must be affirmatively established as a fact as to whether the injury sustained was due to military service or was aggravated by military service.

19. Further, on perusal of the opinion of commanding officer 2 Engineer Regiment regarding injury of Lt Sumeet Malhan dated 03.12.1997 we find that the commanding officer has recorded the finding which is produced as under:

> ***1. IC-54036M 2lt Sumeet Malhan was on PAL wef 17 Oct 97 to 08 Nov 97.***
> ***2. The offr sustained the injury compression Fracture Lv 3 on 17 Oct 97 due to over turning of the autorickshaw in which he was travelling.***
> ***3. The accident was not intentional and the offr is not to be blamed.***
> ***4. The injury sustained by the officer is not attributable to military service.***

In view of the above, we find that there is sufficient evidence on record to show that there is no nexus established between the injury sustained/disability and the military duties. In view of Regulation 423 of the Entitlement Rules, there has to be a causal connection between the injury or death caused by the military service. The determining factor is a

causal connection between the accident and the military duties and the injury has to be connected with military service, howsoever remote it may be. In the instant case, there is no record to substantiate the fact that the cause of the injury sustained by the applicant had any causal connection with military service as according to the aforementioned report on the day when the incident took place, the applicant was proceeding on leave from duty station and his vehicle was suddenly hit by a bus from behind, which, by no stretch of imagination, can be said to be connected with the military duty. Even if the applicant is considered 'on duty' at that time, still the mere fact of a person being 'on duty' or otherwise, at the place of posting or on leave, is not the sole criteria for deciding attributability of a disability/ injury. There has to be a relevant and reasonable causal connection, however remote, between the incident resulting in such disability/injury and military service for it to be attributable. Further, we do not find any clinical report or finding to say that the applicant's disability has been aggravated due to service.

20. Before proceeding further it would be pertinent to refer rule 6 of Entitlement Rules, 2008 is provided 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.

21. It is also apposite to rely on the the judgement passed on somewhat similar issue by the Hon'b1e Supreme Court in the case of ***Secretary, Govt of India & Ors Vs Dharambir Singh*** in **Civil Appeal No. 4981 of 2012**, decided on 20.09.2019, which lays down as under:

".....10) In view of the provisions reproduced above, we find that the following questions arise for consideration:
(i)xxx
(ii) Whether the injury or death caused even if the armed forces personnel is on duty, has to have some causal connection with military service so as to hold that such injury or death is either attributable to or aggravated by military service?
iii) xxx

Answer to Question No.1

(11) to (14) xxx xxx

"Answer to Question No.2

15. The 1982 Rules give expansive definition to the expression 'duty' being undertaken by the personnel of the Armed Forces. It includes the period when Armed Forces personnel is proceeding from his leave station or returning to duty from his leave station. It includes even an accident which occurs when a man is not strictly on duty provided that it involved risk which was definitely enhanced in kind or degree by the nature, conditions, obligations or incidents of his service and that the same was not a risk common to human existence in modern conditions in India.

However, as per Regulation 423 of the Medical Regulations, such injury has to have causal connection with military service or such injury is aggravated by military service.

16. In Regulation 423(a) of the Medical Regulations, it has been specifically mentioned that it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service or active service area or under normal peace conditions, will be deemed to be duty. Regulation 423(a) mandates that it is essential to establish whether the disability or death bore a causal connection with the service conditions. All evidence, both direct and circumstantial, will be taken into account and the benefit of reasonable doubt, if any, will be given to individuals. For the sake of repetition, the said clause reads as under:

"a) For the purpose of determining whether the cause of a disability or death is or is 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 service/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..."

17.

Clause (b) of Regulation 423 of the Medical Regulations presumes that disability or death resulting from wound or injury, will be regarded as attributable to service if the wound or injury was sustained during actual performance of 'duty' in Armed Forces. This is in contradiction to "deemed to be duty" as per Rule 12(f) of 1982 Rules, as the Rule is when a man is not strictly on duty. However, the injuries which are self-inflicting or due to an individual's own serious negligence or misconduct even in the cases of active duty, are not to be conceded unless, it is established that service factors were responsible for such action.

(18)

and (19) xxx xxx

20. In view of Regulation 423 clauses (a), (b) and (d), there has to be a causal connection between the injury or death caused by the military service. The determining factor is a causal connection between the accident and the military duties. The injury or death must be connected with military service howsoever remote it may be. The injury or death must be intervention of armed service and not an accident which could be attributed to risk common to human beings. When a person is going on a scooter to purchase house hold articles, such activity, even remotely, has no causal connection with the military service."

Emphasis supplied

22. The Hon'ble Supreme Court in the case of ***Union of India & others Vs. Ex Naik Ram Singh*** **[2022 SCC OnLine SC 889],** further held that there has to be a reasonable causal connection between the injuries resulting in disability and the military service. Reference is also made to the law laid down by the Hon'ble Supreme Court in Civil Appeal No.6583 of 2015 (arising out of CAD no.13923 of 2014), titled ***Union of India & others vs. Ex-Naik Vijay Kumar***, decided on 26.08.2015, in which the Hon'ble court emphasised that in case of injuries/ casualties during leave it has been mandated that it is all the more important to see whether the disability/ death has some causal connection with the military service or not as, otherwise, in case no such causal connection is established, the claim deserves to be rejected, the relevant paras of which read as under:

16. In *Union of India* v. *Jujhar Singh* [(2011) 7 SCC 735 : (2011) 2 SCC (L&S) 274] , this Court was dealing with the question whether the respondent who had met with an accident in his native place and sustained grievous injury resulting in permanent disability was entitled to disability pension. The respondent in that case had upon recovery from injury continued in military service and superannuated with normal service pension. In the said case, this Court held that the member of the armed forces who is claiming disability pension must be able to show a reasonable nexus between the act, omission or commission resulting in an injury to the person and the normal expected standard of duties and a way of life expected from a member of the armed forces.

17. In yet another case, *Union of India* v. *Talwinder Singh* [(2012) 5 SCC 480 : (2012) 3 SCC (Civ) 216 : (2012) 2 SCC (L&S) 11] , the disability pension was claimed by the individual enrolled in the army who was on annual leave for a period of two months in his home town, got injured during the leave period by a small wooden piece "*gulli*" while playing with children which seriously damaged his left eye. This Court in para 12 observed thus : (SCC p. 484)

> **"*12.* A person claiming disability pension must be able to show a reasonable nexus between the act, omission or commission resulting in an injury to the person and the normal expected standard of duties and way of life expected from such person. As the military personnel sustained disability when he was on an annual leave that too at his home town in a road accident, it could not be held that the injuries could be attributable to or aggravated by military service. Such a person would not be entitled to disability pension. This view stands fully fortified by the earlier judgment of this Court in *Govt. of India (Ministry of Defence)* v. *Ajit Singh* [(2009) 7 SCC 328 : (2009) 2 SCC (L&S) 336] ."**

23. Lastly, the Supreme Court in the case of ***Secretary, Govt of India & Ors Vs Dharambir Singh (supra)*** at para 36 summed up the position as under:

> ***36) We find that summing up of the following guiding factors by the Tribunal in Jagtar Singh v. Union of India & Ors 23 and approved in Sukhwant Singh and in Vijay Kumar do not warrant any change or modification and the claim of disability pension is required to be dealt with accordingly:-***
>
> *"(a) The mere fact of a person being on 'duty' or otherwise, at the place of posting or on leave, is not the sole criteria for deciding attributability of disability/death. There has to be a relevant and reasonable causal connection, howsoever remote, between the incident resulting in such disability/death and military service for it to be attributable. This conditionality applies even when a person is posted and present in his unit. It should similarly apply when he is on leave; notwithstanding both being considered as 'duty'.*
>
> *(b) If the injury suffered by the member of the Armed Force is the result of an act alien to the sphere of military service or in no way be connected to his being on duty as understood in the sense contemplated by Rule 12 of the Entitlement Rules 1982, it would not be legislative intention or nor to our mind would be permissible approach to generalise the statement that every injury suffered during such period of leave would necessarily be attributable.*
>
> *(c) The act, omission or commission which results in injury to the member of the force and consequent disability or fatality must relate to military service in some manner or the other, in other words, the act must flow as a matter of necessity from military service.*
>
> *(d) A person doing some act at home, which even remotely does not fall within the scope of his duties and functions as a Member of Force, nor is remotely connected with the functions of military service, cannot be termed as injury or disability attributable to military service. An accident or injury suffered by a member of the Armed Force must have some casual connection with military service and at least should arise from such activity of the member*

of the force as he is expected to maintain or do in his day-to-day life as a member of the force.

(e) The hazards of Army service cannot be stretched to the extent of unlawful and entirely un-connected acts or omissions on the part of the member of the force even when he is on leave. A fine line of distinction has to be drawn between the matters connected, aggravated or attributable to military service, and the matter entirely alien to such service. What falls ex-facie in the domain of an entirely private act cannot be treated as legitimate basis for claiming the relief under these provisions. At best, the member of the force can claim disability pension if he suffers disability from an injury while on casual leave even if it arises from some negligence or misconduct on the part of the member of the force, so far it has some connection and nexus to the nature of the force. At least remote attributability to service would be the condition precedent to claim under Rules 173. The act of omission and commission on the part of the member of the force must satisfy the test of prudence, reasonableness and expected standards of behaviour.

(f) The disability should not be the result of an accident which could be attributed to risk common to human existence in modern conditions in India, unless such risk is enhanced in kind or degree by nature, conditions, obligations or incidents of military service."

24. Therefore, it is evident from the aforementioned parameters laid down by the Hon'ble Supreme Court that simply being on duty or leave is not enough; there must be a relevant link between the incident and military service. Injuries occurring from actions that are not related to military duties cannot be automatically considered attributable, even if they happen during leave. Additionally, any acts leading to injury must relate to military responsibilities; those stemming from personal activities outside

military scope are not compensable. A distinction is drawn between actions connected to military service and private acts, with the latter not justifying claims for disability pensions. Furthermore, any actions resulting in injury must adhere to standards of prudence and reasonableness expected of a service member. Lastly, disabilities arising from common risks of modern life are typically not compensable unless these risks are heightened by the unique conditions of military service. Thus, a valid claim for a disability pension necessitates a clear connection to military duties or the circumstances of military life.

25. As far as assessment made by the RMB in respect of the disability in question with regard to attributability is concerned, the Hon'ble Supreme Court in its judgement in the case of ***Secretary, Ministry of Defence & Others Vs. Damodaran A.V. (dead) through LRs. & Others [(2009) 9 SCC 140],*** clearly brings out the following principles with regard to primacy of medical opinion:-

> ***"8. When an individual is found suffering from any disease or has sustained injury, he is examined by the medical experts who would not only examine him but also ascertain the nature of disease/injury and also record a decision as to whether the said personnel is to be placed in a medical category which is lower than 'AYE' (fit category) and whether temporarily or permanently. They also give a medical assessment and advice as to whether the individual is to be brought before the release/***

invalidating medical board. The said release/invaliding medical board generally consists of three doctors and they, keeping in view the clinical profile, the date and place of onset of invaliding disease/disability and service conditions, draws a conclusion as to whether the disease/injury has a causal connection with military service or not. On the basis of the same they recommend (a) attributability, or (b) aggravation, or (c) whether connection with service. The second aspect which is also examined is the extent to which the functional capacity of the individual is impaired. The same is adjudged and an assessment is made of the percentage of the disability suffered by the said personnel which is recorded so that the case of the personnel could be considered for grant of disability element of pension. Another aspect which is taken notice of at this stage is the duration for which the disability is likely to continue. The same is assessed/ recommended in view of the disease being capable of being improved. All the aforesaid aspects are recorded and recommended in the form of AFMSF- 16. The Invalidating Medical Board forms its opinion/ recommendation on the basis of the medical report, injury report, court of enquiry proceedings, if any, charter of duties relating to peace or field area and of course, the physical examination of the individual. 9. The aforesaid provisions came to be interpreted by the various decisions rendered by this Court in which it has been consistently held that the opinion given by the doctors or the medical board shall be given weightage and primacy in the matter for ascertainment as to whether or not the injuries/illness sustained was due to or was aggravated by the military service which contributed to invalidation from the military service."

26. The Apex Court in its judgement in ***Ex Cfn Narsingh Yadav Vs. Union of India & Ors.*** **[(2019) 13 SCR 260]** has held that there can be no mechanical application of principle that any disorder not mentioned at time of enrolment is presumed to be attributed or aggravated by military

service. It also held that the scope of judicial review in the opinion of a medical board is limited, as the courts do not possess expertise to dispute the report unless there is strong medical evidence warranting it.

> ***"20) In the present case, clause 14(d), as amended in the year 1996 and reproduced above, would be applicable as entitlement to disability pension shall not be considered unless it is clearly established that the cause of such disease was adversely affected due to factors related to conditions of military service. Though, the provision of grant of disability pension is a beneficial provision but, mental disorder at the time of recruitment cannot normally be detected when a person behaves normally. Since there is a possibility of non-detection of mental disorder, therefore, it cannot be said that Schizophrenia is presumed to be attributed to or aggravated by military service.***
> ***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. The invaliding Medical Board has categorically held that the appellant is not fit for further service and there is no material on record to doubt the correctness of the Report of the invaliding Medical Board.***
> ***22) Thus, we do not find any merit in the present appeal, accordingly, the same is dismissed."***

27. In the case in hand, it is undisputed that the applicant met with an accident while proceeding to leave from duty station, and the disability was indicated as 'Compression Fracture LV3' and hence the applicant was not performing any duty or any act which, by any stretch of imagination, is

connected with the service. In this scenario, we are of the considered view that the injury sustained by the applicant does not have any causal connection, even remotely with the service and thus, the disability cannot be held attributable to military service.

28. In view of the aforesaid judicial pronouncements and the parameters referred to above, the disability of the applicant 'Compression Fracture LV3' has rightly been opined by the RMB as 'neither attributable to nor aggravated by service as there is no causal connection established between the injury sustained/disability and the military service. Accordingly, finding no infirmity in the opinion of the RMB, we dismiss the OA.

29. No order as to costs.

Pronounced in open Court on this 27th day of September, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN P.M. HARIZ]
MEMBER (A)

/ashok/