

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

F..

OA 1719/2020

Col Dinesh Chaudhary (Retd.)

..... Applicant

VERSUS

Union of India and Ors.

..... Respondents

For Applicant : Mr. Praveen Kumar, Proxy for  
Mr. Virender Singh Kadian, Advocate  
For Respondents : Mr. Rajeev Kumar, Advocate

CORAM

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

ORDER  
02.01.2024

Vide our detailed order of even date; we have allowed the OA 1719/2020. 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)

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**For Applicant : Mr. Virender Singh Kadian, Advocate**  
**For Respondents : Mr. Rajeev Kumar, Advocate**

**CORAM :**

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

**ORDER**

The applicant "Col Dinesh Chaudhary (Retd.) No. IC-41077X"

vide the present OA makes the following prayers:-

*"(a) Quash and set aside the impugned letter No 13416/IC-41077/EME/MP-6(F) dated 16.06.2020. And/or*

*(b) Direct respondents to treat the disabilities of the applicant as attributable to /aggravated by military service and grant him disability element of pension with the benefits of rounding off/ broad banding. And/or*

*(c) Direct respondents to pay the due arrears of disability pension from the date of his discharge with interest @12% p.a with all the consequential benefits. And/or*

*(d) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."*

2. The applicant was commissioned in the Indian Army on 18.06.1983 (PC) and retired there from wef 31.03.2016 (AN) on attaining the age of superannuation in Medical Category SHAPE-1 vide AFMSF-18 dated 22.09.2015. He was re-employed in Army service from 29.07.2016 to 03.03.2020 and released from re-employment in low medical category S1HA2(P)P2(P)E1. He was re-employed in Army Service from 29.07.2016 to 03.03.2020 and released from re-employment in low medical category S1HA2(P)P2(P)E1.

3. As per the Release Medical Board dated 04.02.2020, the disabilities of the applicant were assessed as under:-

Sl.no.	Disability	ATTR/AGGR/ NANA	% of Disability	Composite Assessment for disabilities (Max 100% with duration)	Disability qualifying for disability pension with duration	Net assessment qualifying for disability pension (Max 100% with duration)
A	CAD STEIWM PAMI TO RCA	NANA	30%	46.45% for life	Nil for life	10% for life
B	ADVANCE OA KNEE	NANA	15%		Nil for life	
C	RAMSAY HUNT SYNDROME (L) (VII, VIII, IX, CRANICAL NERVES)	NANA	10%		10% for life	

4. The applicant's initial disability claim was adjudicated and rejected by the Competent Authority vide letter No 13416/IC-41077/EME/MP-

6(F)/203/2020/AGI PS-4 (Imp-I) dated 31.07.2020 stating that the disability IDs (i) CAD STEIWM I PAMI TO RCA, (ii) ADVANCE OA KNEE & (iii) RAMSAY HUNT SYNDROME (L) (VII, VIII, IX, CRANIAL NERVES) from which the claimant was found suffering at the time of Release Medical Board, ID (iii) has been held as attributable to military service but has been assessed @ 10% for life i.e. less than 20% and ID (i) & (ii) have been held as neither attributable to nor aggravated by military service.

5. The onset of the disabilities is reflected in Part VI of the RMB, the statement of the case as under:-

Disabilities	Date of Origin	Rank of the individual	Place and Unit where serving at the time	Date of Initial AFMSF 15 for each disease / dis
CAD STEIWM I PAMI TO RCA	19 May 2018	Col	New Delhi / WEE Wksp	26 Jun 2018
ADVANCE OA KNEE	1998			14 Sep 2018
RAMSAY HUNT SYNDROME (L) (VII, VIII, IX CRANIAL NERVES)	Jan 2019			06 Mar 2019

6. The opinion of the medical board in Part VII of the RMB proceedings is as under:-

Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	Detailed justification
(A)CAD STEIWM I PAMI TO RCA	NO	NO	Onset of ID in 19 May 2018 at New Delhi (Peace Area. Detected to have STE IWMI with CHB. He was taken up for urgent PCI and



				PAMI to RCA was done. 14 days charter of duty shows no contributory factor related to service. Hence ID conceded as neither attributable nor aggravated by mil service as per para 47 chapter VI of GMO 2008 E F 60% NYHA class-1.
(B)ADVANCE KNEE	OA	NO	NO	Onset of symptoms in yr 2015, recorded in Spl opinion of 12 Sep 2018. Offr got re-employment on 29 Jul 2016. The present condition is related to an old injury in yr 1998 in previous employment. He was observed in LMC initially and subsequently upgraded to SHAPE-1. He proceeded on release in SHAPE-1 in previous employment. As the present clinical condition had onset in yr 2015 and linked to old injury of yr 1998, the ID is conceded as neither attributable nor aggravated by service as per para 9 (a) of AHQ DGMS-5A letter No 76086/Rulling/DGMS-5 (A) dt 04 Aug 2016. No abnormality. Gait normal. Only left knee ACL Gd-1 laxity present. No apparent stress and strain of service evident post retirement in re-employment period.
(C)RAMSAY HUNT SYNDROME (L) (VII, VIII, IX CRANIAL NERVES)		YES	NO	Onset of ID in Jan 2019 at Delhi (Peace Area). ID is due to viral etiology and hence considered attributable to mil service. Minimal Facial asymmetry present with persistent swallowing difficulty and taste disturbance. No functional impairment noted.

The RMB whilst quantifying the disablement of the applicant at 46.45% for life nevertheless assessed the net assessment qualifying for disability pension as 10% as under:-

<i>Disability/Disabilities (As numbered in Para 1 Part VI)</i>	<i>Percentage of disablement</i>	<i>Corresponding Para of GMO 2008</i>	<i>Composite assessment for all disabilities (Max 100% with duration)</i>	<i>Disease/Disability qualifying for disability pension with duration</i>	<i>Net assessment qualifying for disability pension (Max 100% with duration)</i>
CAD STEIWMI PAMI TO RCA	30%	Para 21 (e) chapter VII of GMO 2008	46.45 % for life	Nil for life	10% for life
ADVANCE OA KNEE	15%	Para 32 chapter VII of GMO 2008		Nil for life	
RAMSAY HUNT SYNDROME (L) (VII, VIII, IX CRANIAL NERVES)	10%	Para 20 & chapter VII of GMO 2008		10% for life	

7. The initial disability claim in respect of the applicant was adjudicated and rejected by the Competent Authority vide letter No 13416/IC-41077/EME/MP-6(F)/203/2020/AGI PS- 4(Imp-I) dated 31 Jul 2020 stating that the disability IDs (i) CAD STEIWMI PAMI TO RCA, (ii) ADVANCE OA KNEE & (iii) RAMSAY HUNT SYNDROME (L) (VII, VIII, IX, CRANIAL NERVES)" from which the claimant was found suffering at the time of Release Medical Board, ID (iii) has been held as attributable to military service but has been assessed @ 10% for

life i.e. less than 20% and ID (i) & (ii) have been held as neither attributable to nor aggravated by military service, in the interest of justice and in terms of Section 21 (2) (b) of the AFT Act 2007, we consider it appropriate to take up the same for consideration.

### ***CONTENTIONS OF THE PARTIES***

8. The applicant submits that he was commissioned in Indian Army on 18.06.1983 and was discharged from service wef 31.03.2016 and was re-employed on 29.07.2016 and medically boarded out from service in low medical category on 03.03.2020. The applicant was downgraded to low medical category for the disability CAD SETIWM I POST PAMI TO RCA (FRESH) NORMAL LV FUNCTION and considered as attributable to/aggravated by military service by the initial medical board but later on Release/Invalid Medical Board considered the disability as neither attributable to nor aggravated by military service.

9. Inter alia the applicant submits that the Medical Authorities in initial Categorization Medical Board assessed the disability ID (i) CAD SETIWM I PAMI TO RCA as attributable to aggravated by military service. Inter alia the applicant submits that his claim for grant of disability pension was processed but the same was rejected by the respondents vide impugned letter No 13416/IC-41077/EME/MP-6(F) dated 16.06.2020 stating re-employed officers who are discharged from

service before completion of terms and engagements are not eligible for disability pension.

10. The applicant submits that he was discharged from service on medical grounds and his service was cut short due to his disability, and that thus he is eligible for counting of the disability that occurred during Re-emp service in terms of IHQ of MoD (Army), DGMS policy letter No 76086 / Ruling / DGMS - 5(A) dated 04.08.2016, as he was performing the same duties of military service during the re-employment period and wearing Army Uniform and was posted as per requirement of service his disability was to be counted for the grant of the benefits of disability pension. Inter alia the applicant submits that the respondents did not consider the said facts and rejected the case on hyper technical grounds.

11. Reliance was thus placed on behalf of the applicant on the verdicts of the Hon'ble Supreme Court in ***Dharamvir Singh vs UOI & Ors*** (Civil Appeal No. 4949/2013) 2013 AIR SCW 4236 decided on 02.07.2013 with specific observations in Para 28 thereof which reads to the effect:-

*"28. A conjoint reading of various provisions, reproduced above, makes it clear that:*

*(i) 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 or aggravated by military service to be determined under "Entitlement Rules for Casualty Pensionary Awards, 1982" of Appendix-II (Regulation 173).*

*(ii) 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 r/w Rule 14(b)].*

*(iii) 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).*

*(iv) 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)].*

*(v) 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. [14(b)].*

*(vi) 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. [14(b)]; and*

*(vii) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the "Guide to Medical (Military Pension), 2002 – "Entitlement : General Principles", including paragraph 7,8 and 9 as referred to above."*

12. During the course of arguments on 13.09.2023, the learned counsel for the applicant submitted that now the applicant only seeks the grant of the disability element of pension in relation to CAD STEIWM I PAMI TO RCA assessed @30% and the prayers made for the grant of disability element of pension in relation to Advance OA Knee and Ramsay Hunt Syndrome (L) were not pressed and prayed that the disability of the applicant i.e. CAD STEIWM I PAMI TO RCA assessed at 30% for life be

rounded off to 50% for life in terms of the verdict of the Hon'ble Supreme Court in *UoI vs Ram Avtar* (Civil Appeal no. 418/2012) dated 10.12.2014.

13. The respondents submit through their counter affidavit that the opinion of the medical board is recommendatory in nature and has to be approved by Competent Administrative Authority in terms of Para 2(a) of Gol, MoD letter No 1(2) / 2002 / D (Pen-C) dt 01 Sep 2005 and submit that in the instant case the Release Medical Board has recommended the disability "CAD STEIWM I PAMI TO RCA and ADVANCE OA KNEE of the petitioner as 'NANA' in terms of Para 47, Chapter VII of GMO 2008 and Para 9(a) of DGMS-5A letter No 76086/Ruling/DGMS-5(A) dated 04 Aug 2016.

14. Inter alia the respondents submit that the Competent Authority, after examining the case in the light of relevant rules and administrative/medical provisions has conceded both the IDs of the petitioner as 'NANA' and therefore, being NANA IDs, the petitioner is not entitled for grant of disability element of disability pension.

#### ***ANALYSIS***

15. A consideration of the entire available records and rival submissions made on behalf of either side brings forth that the disability of the applicant of 'CAD STEIWM I PAMI TO RCA' had its onset on

19.05.2018, when the applicant was posted in his 15<sup>th</sup> posting at WEE Wksp (DV Dte, Army HQ) at Delhi

16. The posting profile of the applicant is reflected in Part II of the personal statement of the applicant in the RMB as under:

S NO	From	To	Unit	Place/Ship	P/F(HAA/Ops/Sea service)/Mod Fd	S No	From	To	Unit	Place/Ship	P/F(HAA/Ops/Sea service)/Mod Fd
(a)	18/06/83	15/01/84	6 Sikh	Mizoram	Field	(b)	16/01/84	11/11/84	605 EME Bn	Dahung	Field
(c)	18/12/87	20/10/90	631 EME Bn	Jhansi	Peace	(d)	21/10/90	24/05/93	976AD Regt Wksp	Ambala	Peace
(e)	23/05/93	10/01/95	MCEME	Secunderabad	Peace	(f)	10/06/96	06/05/99	Stn Wksp Kolkata	Kolkata	Peace
(g)	07/05/99	12/06/02	GS Br DDG Mgt Studies	Delhi	Peace	(h)	13/06/02	27/07/04	HQ 15 Corps	Srinagar	Field
(i)	01/08/06	25/10/08	HQ 33Corps	Siliguri	Modified Field	(k)	26/10/08	26/11/09	MC EME	Secunderabad	Peace
(l)	27/11/09	02/02/11	MAG No 4	Hyderebad	Peace	(m)	03/02/11	04/06/13	BRO Danapur	Danapur	Peace
(n)	05/06/13	31/03/16	CFEES	Delhi	Peace	(o)	29/07/16	02/12/17	7004 EME Bn	Tezpur	Modified Field
(p)	03/12/17	03/03/20	WEE Wksp(DV Dte, Army HQ)	Delhi	Peace						

17. The respondents also submit that the onset of the disability was in a peace area and thus there was nothing to indicate that it was caused due to any stressful activity of the applicant and that there was no causal connection with military service with the disability.

18. Para 47, Chapter VI of the Guide to Medical Officers (Military Pensions), 2008, is as under:-





"47. Ischaemic Heart Disease (IHD).

*IHD is a spectrum of clinical disorders which includes asymptomatic IHD, chronic stable angina, unstable angina, acute myocardial infarction and sudden cardiac death (SCD) occurring as a result of the process of atherosclerosis. Plaque fissuring and rupture is followed by deposition of thrombus on the atheromatous plaque and a variable degree of occlusion of the coronary artery. A total occlusion results in myocardial infarction in the territory of the artery occluded.*

*Prolonged stress and strain hastens atherosclerosis by triggering of neurohormonal mechanism and autonomic storms. It is now well established that autonomic nervous system disturbances precipitated by emotions, stress and strain, through the agency of catecholamines affect the lipid response, blood pressure, increased platelet aggregation, heart rate and produce ECG abnormality and arrhythmias.*

*The service in field and high altitude areas apart from physical hardship imposes considerable mental stress of solitude and separation from family leaving the individual tense and anxious as quite often separation entails running of separate establishment, financial crisis, disturbance of child education and lack of security for family. Apart from this, compulsory group living restricts his freedom of activity. These factors jointly and severally can become a chronic source of mental stress and strain precipitating an attack of IHD. IHD arising in while serving in Field area/HAA/CI Ops area or during OPS in an indl who was previously in SHAPE-I will be considered as attributable to mil service.*

*Entitlement in Ischemic heart disease will be decided as follows:-*

*(a) Attributability will be conceded where: A myocardial infarction arises during service in close time relationship to a service compulsion involving severe trauma or exceptional mental, emotional or physical strain, provided that the interval between the incident and the development of symptoms is approximately 24 to 48 hours. IHD arising in while serving in Field area/HAA/CI Ops area or during OPS in an indl who was previously in SHAPE-I will be considered as attributable to mil service. Attributability will also be conceded when the underlying disease is either*

*embolus or thrombus arising out of trauma in case of boxers and surgery, infectious diseases. E.g. Infective endocarditis, exposure to HAA, extreme heat.*

*(b) Aggravation will be conceded in cases in which there is evidence of:-*

*IHD occurring in a setting of hypertension, diabetes and vasculitis, entitlement can be judged on its own merits and only aggravation will be conceded in these cases. Also aggravation may be conceded in persons having been diagnosed as IHD are required to perform duties in high altitude areas, field areas, counter insurgency areas, ships and submarines due to service compulsions.*

*There would be cases where neither immediate nor prolonged exceptional stress and strain of service is evident. In such cases the disease may be assumed to be the result of biological factors, heredity and way of life such as indulging in risk factors e.g. smoking. Neither attributability nor aggravation can be conceded in such cases."*

19. As per Para 47, Chapter VI of the Guide to Medical Officers (Military Pensions), 2008, it has been provided specifically that the service in field and high altitude areas apart from physical hardship imposes considerable mental stress of solitude and separation from family leaving the individual tense and anxious as quite often separation entails running of separate establishment, financial crisis, disturbance of child education and lack of security for family. It is also stipulated therein that apart from this, compulsory group living restricts the freedom of activity and that these factors jointly and severally can become a chronic source of mental stress and strain precipitating an attack of IHD and that IHD arising while serving in Field area/HAA/CI Ops area or during OPS in an individual who was previously in SHAPE-I will be considered as attributable to military service.

20. Undoubtedly, the disability of the applicant had its onset on 19.05.2018 in a peace area in relation thereto however it is essential to advert to Para 423 of the Regulations for the Medical Services of the Armed Forces 2010 which has not been obliterated.

21. Para 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.*

22. 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 provide 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.”*

*(emphasis supplied),\_\_*

Thus, the ratio of the verdicts in ***Dharamvir Singh Vs. Union Of India &Ors*** (Civil Appeal No. 4949/2013); (2013 7 SCC 316, ***Sukhvinder Singh Vs. Union Of India &Ors***, dated 25.06.2014 reported in 2014 STPL (Web) 468 SC, ***UOI &Ors. Vs. Rajbir Singh*** (2015) 12 SCC 264 and ***UOI & Ors. Vs. 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.

23. The Hon'ble Supreme Court in ***Dharamvir Singh*** (supra) vide para 33 has categorically made reference to Para 423 of the Regulations for the Medical Services of the Armed Forces 2010 to bring forth that the arising of the disability in a peace area or a field area is by itself irrelevant to assess the aspect of attributability of the disability due to military



service. The observations of the Hon'ble Supreme Court in *Dharamvir Singh* (supra) are to the effect:-

*"33. As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease 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. "Classification of diseases" have been prescribed at Chapter IV of Annexure I; under paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a casual connection with the service conditions."*

24. Furthermore, in terms of Para 8 (a) of the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008, it is stipulated to the effect:-

*"8(a) Cases in which a disease was not present at the time of the member's retirement/discharge from service but arose within 7 years thereafter, may be recognized as attributable to service if it can be established by the competent medical authority that the disability is a delayed manifestation of a pathological process set in motion by service conditions obtaining prior to discharge."*

25. As has been observed by us in OA 1204/2019 pronounced on 30.05.2023 in the case of *Ex Hav (ACP-I) Satnarain Singh vs UOI & Ors*, there appears no reasons to place personnel of the armed forces who have retired/have been discharged and in service on a different footing for analyzing the aspect of the arising of the disability within a period of 7 years as a delayed manifestation of a pathological process set in motion by service conditions obtaining prior to

discharge to thus recognize the disability as being attributable to service.

26. Para 10(b)(iii) of the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel 2008 which take effect from 01.01.2008 reads to the effect:-

*"10. (b)(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.'",*

27. The disability of 'CAD STEIWM I PAMI TO RCA' that the applicant suffers from in the instant case has to be held to be attributable to service and aggravated thereby, as the initial presumption of entitlement in favour of the applicant has not been rebutted by the respondents.

### **CONCLUSION**

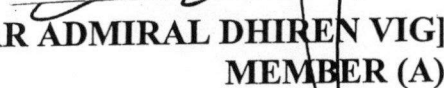
28. In the circumstances, the **OA 1719 / 2020** is allowed and the applicant is thus held entitled to the grant of the disability element of pension qua the disability of the applicant i.e. 'CAD STEIWM I PAMI TO RCA' assessed at 30% for life, which is directed to be broad banded to 50% for life in terms of the verdict of the Hon'ble Supreme Court in *UoI vs Ram Avtar* (Civil Appeal no. 418/2012) dated 10.12.2014 with effect from the date of his discharge and the respondents are directed to issue the corrigendum PPO with directions to the respondents to pay the

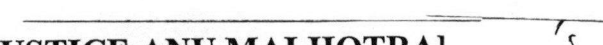


arrears within a period of three months from the date of receipt of a copy of this order, *failing which*, the respondents would be liable to pay interest @ 6% p.a. on the arrears due from the date of this order.

29. No order as to costs.

Pronounced in the Open Court on the 2 day of January, 2024.

  
[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

  
[JUSTICE ANU MALHOTRA]  
MEMBER (J)

/AP/