

**COURT NO. 1, ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**O.A. No. 432 of 2024 WITH MA 498/2024**

**In the matter of :**

**Ex WO Santosh Kumar Singh**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant : Mr. Ajit Kakkar, Advocate**

**For Respondents : Mr. Sudhir Kumar, Advocate**

**CORAM:**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**  
**HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

**ORDER**

**MA 498/2024**

MA 498/2024 is filed on behalf of the applicant seeking condonation of 297 days delay in filing the present OA for reasons mentioned therein. In the interest of justice, in view of the judgments of the Hon'ble Supreme Court in the matter of ***UoI & Ors Vs Tarsem Singh*** (2008) 8 SCC 648 and in ***Ex Sep Chain Singh Thr LR. Dhaneshwari Devi Vs Union of India & Ors*** in Civil Appeal No. 022965/2017 arising out of Civil Appeal Diary No. 30073/2017 and the reasons mentioned, the MA 498/2024 is allowed and the delay of 297 days in filing

the OA is thus condoned. The MA is disposed of accordingly.

**O.A. No. 432 of 2024**

2. Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA and the reliefs claimed in Para 8 read as under:

- “(a) To direct the respondents to bring all service and medical documents on records of the Applicant including RMB with advance copy to the Applicant.***
- (b) To direct the Respondents to grant Disability pension and broad banding of the disability pension from the date of Release (30.04.2022) w.e.f. (01.05.2022)***
- (c) To direct the Respondents to issue a corrigendum PPO pertaining to the disability pension and broad banding of the disability pension of the applicant.***
- (d) To direct the respondents to pay arrears of disability pension and broad banded disability pension along with interest @12% from the date of discharge (30.04.2022) i.e. (01.05.2022).***
- (e) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.***

**BRIEF FACTS**

3. The applicant, having been found medically and physically fit after thorough medical examination, was enrolled in the Indian Air Force on 28.11.1985 and was discharged from service on 30.04.2022 on attaining the age

of superannuation after rendering total 36 years, 05 months and 01 day of regular service. The Release Medical Board held on 04.10.2021 assessed the applicant's disabilities 'Primary Hypertension (Old) @ 30% for life and Diabetes Mellitus Type II (Old) @ 20% with composite assessment of the disabilities at 40% for life, which were held as 'neither attributable to nor aggravated by military service' (NANA). Based on the recommendations of the RMB, the disability pension has been denied to the applicant.

4. AOC AFRO, on adjudication, upheld the recommendations of the RMB and rejected the initial claim of the applicant for disability pension and the said decision was communicated to the applicant vide letter dated 17.05.2022 with an advice that he may prefer an appeal to the appellant Committee within six months from the receipt of the letter. The applicant preferred his 1<sup>st</sup> appeal dated 09.05.2023 against the rejection of the disability pension which was rejected vide letter dated 15.05.2024. Aggrieved by the rejection of the first appeal, the applicant has filed the present OA. In the interest of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(2)(b) of the AFT Act, 2007.

## **CONTENTIONS OF THE PARTIES**

5. The learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fully fit mentally and physically and no note of disability was made in his medical record at the time of entering the service and any medical disability contracted by him during the course of his service should be treated as being attributable and aggravated by the stress and strain of his service. The learned counsel explained about the stressful and challenging conditions of service undertaken by the applicant during his service tenure. The learned counsel submitted that the applicant worked in trade as Radio Fitter and due to his job's nature involves high exposure to harmful waves which directly or indirectly impacts senses and mind of the applicant; the applicant had to travel frequently on temporary duties and attachments on various courses during his service and he had to stay away from his family and non-family stations and hard areas adding to stress and strain on the applicant. The applicant performed his duties even during the odd weather and hostile environmental conditions and had served in tough and different weather and environmental conditions and discharged all assigned duties



with utmost dedication in a well-disciplined and professional manner.

6. The learned counsel for the applicant further contended that the instant matter is squarely covered by the verdict of the Hon'ble Supreme Court such as **Dharamvir Singh v. Union of India & Ors.** (Civil Appeal No. 4949 of 2013) [2013 (7) SCC 316], 2013 (12) JT 44]. Furthermore, placed reliance on the Civil Appeal No. 418/2012 titled **UoI & Ors. v. Ram Avtar** vide judgment dated 10.12.2014, **UoI vs. Rajbir Singh** (2015) 12 SCC 256, **Sukwinder Singh vs. UoI & Ors.** (2014) 14 SSC 364, **UoI vs. Angad Singh Titaria** (2015) 12 SCC 257, CA Nos. 3101-3102/ 2015 titled as **Ex Lt Col R.K. Rai vs. Union of India & Ors.**, CWP No. 91/2007 etc., wherein the similarly situated personnel was given relief. The learned counsel for the applicant further submitted that the respondents' action in denying the grant of the disability pension is unjustified and unlawful, when the disabilities recorded by the RMB occurred during the military service and was caused due to stress and strain of service. The learned counsel, therefore, prayed that the disability may be held to be attributable to/aggravated by

military service and that the disability pension may be granted to the applicant.

7. *Per contra*, the learned counsel for the respondents contended that the applicant is not entitled to the relief claimed, as the Release Medical Board (RMB), being an expert body, had opined that the disabilities were "Neither Attributable to Nor Aggravated by Military Service." It was further submitted that the applicant was a drinker and was overweight, and his alcohol consumption and being overweight had contributed to the onset of his medical condition. The learned counsel argued that the applicant's disabilities failed to satisfy one of the twin conditions stipulated under Regulation 153 of the Pension Regulations for the Air Force, 1961 (Part-I), since both the disabilities were assessed as neither attributable to nor aggravated by military service. Accordingly, the applicant was not entitled to the grant of disability pension, and the Original Application was liable to be dismissed.

### **ANALYSIS**

8. On the careful perusal of the materials available on record and also the submissions made on behalf of the parties, we find that the applicant has suffered from two

disabilities viz. (i) Primary Hypertension (Old) @ 30% (ii) Diabetes Mellitus Type II (Old) @20% for life, with composite assessment of disabilities @40% for life. Accordingly, the issue which is to be considered now is whether the disability suffered by the applicant is to be held attributable to and aggravated by military service or not?

9. So far as the disabilities of the applicant "Primary Hypertension" and "Diabetes Mellitus Type II (Old)" are concerned, the onset of the first disability was in December 2011 and the second ID was in October 2013 respectively, whilst he was posted at Trivandrum, i.e., a field posting.

10. As per Para 43 of Chapter VI of the 'Guide to Medical Officers (Military Pension), 2002 amended 2008 (hereinafter referred to as '(GMO (MP) 2008)', the provisions for determining the aggravation of hypertension by the service conditions have been provided as under :

*"43. Hypertension - The first consideration should be to determine whether the hypertension is primary or secondary. If (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.**

*(emphasis supplied)*

11. As per Para 26 of Chapter VI of GMO (MP) 2008, 'Diabetes Mellitus Type-II' is to be conceded as aggravated if the onset occurs while serving in Field/CIOPS/HAA/ prolonged afloat service to armed forces personnel and having been diagnosed as 'Diabetes Mellitus Type-II', who are required to serve in these areas. Furthermore, stress and strain because of service reasons are stated therein to be known factors which can precipitate diabetes or cause uncontrolled diabetic state. Specific relevant portions of Para 26, Chapter VI of the GMO (MP), 2008, read 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 .....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 ..... 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.”

**(emphasis supplied)**

12. With regard to the attributability of a disability, the consistent stand taken by this Tribunal is based on the law laid down by the Hon'ble Supreme Court in the case of ***Dharamvir Singh Vs. Union of India and others [(2013) 7 SCC 316]***, which has been followed in subsequent decisions of the Hon'ble Supreme Court and in the number of orders passed by the Tribunal, wherein the Apex Court had considered the question with regard to payment of disability pension and after taking note of the provisions of the Pension Regulations, Entitlement Rules and the General Rules of

Guidance to Medical Officers, it was held by the Hon'ble Supreme Court that an Army personnel shall be presumed to have been in sound physical and mental condition upon entering service except as to physical disabilities noted or recorded at the time of entrance and in the event of his being discharged from service in permanent low medical category, any deterioration in his health, which may have taken place, shall be presumed to be due to service conditions. The Apex Court further held that the onus of proof shall be on the respondents to prove that the disease from which the incumbent is suffering is neither attributable to nor aggravated by military service. The relevant para thereof is reproduced hereunder:-

***"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."**

13. The 'Entitlement Rules for Casualty Pensionary Awards, to the Armed Forces Personnel 2008, which take effect from 01.01.2008 provide vide Paras 6,7,10,11 thereof 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.***

**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:**

**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 courses 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 Altitude etc.”*

14. Furthermore, Regulation 423 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.*

*(b). Decision regarding attributability of a disability or death resulting from wound or injury will be taken by the authority next to the Commanding officer which in no case shall be lower than a Brigadier/Sub Area Commander or equivalent. In case of injuries which were self-inflicted or due to an individual's own serious negligence or misconduct, the Board will also comment how far the disablement resulted from self-infliction, negligence or misconduct.*

*(c). The cause of a disability or death resulting from a disease will be regarded as attributable to Service when it is established that the disease arose during Service and the conditions and circumstances of duty in the Armed Forces determined and contributed to the onset of the disease. Cases, in which it is established that Service conditions did not determine or contribute to the onset of the disease but influenced the subsequent course of the disease, will be regarded as aggravated by the service. A disease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in Service if no note of it was made at the*

*time of the individual's acceptance for Service in the Armed Forces. However, if medical opinion holds, for reasons to be stated that the disease could not have been detected on medical examination prior to acceptance for service, the disease will not be deemed to have arisen during service.*

*(d). The question, whether a disability or death resulting from disease is attributable to or aggravated by service or not, will be decided as regards its medical aspects by a Medical Board or by the medical officer who signs the Death Certificate. The Medical Board/Medical Officer will specify reasons for their/his opinion. The opinion of the Medical Board/Medical Officer, in so far as it relates to the actual causes of the disability or death and the circumstances in which it originated will be regarded as final. The question whether the cause and the attendant circumstances can be accepted as attributable to/aggravated by service for the purpose of pensionary benefits will, however, be decided by the pension sanctioning authority.*

*(e). To assist the medical officer who signs the Death certificate or the Medical Board in the case of an invalid, the CO unit will furnish a report on :*

**AFMSF - 16 (Version - 2002) in all cases**

**(ii) IAFY - 2006 in all cases of injuries.**

*(f). In cases where award of disability pension or reassessment of disabilities is concerned, a Medical Board is always necessary and the certificate of a single medical officer will not be accepted except in case of stations where it is not possible or feasible to*

***assemble a regular Medical Board for such purposes. The certificate of a single medical officer in the latter case will be furnished on a Medical Board form and countersigned by the Col (Med) Div/MG (Med) Area/Corps/Comd (Army) and equivalent in Navy and Air Force."***

***(emphasis supplied)***

has not been obliterated.

15. In the present case, the applicant was diagnosed with both the disabilities namely Primary Hypertension (Old) and Diabetes Mellitus Type II (Old), when the applicant was posted at Trivendrum, i.e., a field posting and it is evident from the GMO (MP), 2008, that such disabilities will be considered aggravated, if it occurs while serving in Field areas, HAA, CIOPS areas or prolonged afloat service. In fact, even before Trivandrum, the applicant was posted to Uttarlai, which is also a field posting, from 07.07.2008 to 24.07.2011 for more than three years. Thereafter, even after having been diagnosed with the disabilities in question, he was posted to another field posting at Bhuj from 17.06.2014 to 12.07.2020 i.e. for almost four years. His posting profile shows that during his 36 years of service tenure, he was posted to five field postings. It is therefore reasonable to conclude that the applicant has faced considerable stress and strain which

contributed to the aggravation of the disabilities and hence such a long service tenure in the military cannot be ignored when considering the causal connection between the disabilities of the applicant and service. Moreover, the applicant served in varied climatic, social, and environmental conditions, performing strenuous and stressful duties, which could have contributed to the onset and/or aggravation of the disabilities. The cumulative stress and strain of such a long service must be given due weight.

16. We are, therefore, of the considered view that both the disabilities suffered by the applicant should be held as aggravated by the military service. In so far as the contention raised on behalf of the respondents that the applicant was an alcoholic person is concerned, on perusal of the medical records of the applicant we find that although the Annual Medical Examination sheet dated 20.04.2009 indicated the applicant to be 'Drinker' but how much it made impact on his health condition which could have contributed to the onset of the disabilities was not mentioned and other than that there was no evidence to show that he was a drinker. Even in the column for reasons given for onset of the disabilities in the RMB, there is no mention of the applicant



being a drinker or alcoholic. Hence, we do not find force in the contention raised on behalf of respondents and thus the same cannot be accepted.

17. As far as the issue regarding the applicant being overweight is concerned, the respondents submitted a weight chart of the applicant and in that chart, it is seen that the applicant was found overweight, the same chart along with an addition of "% of Overweight" column is tabulated as follows:-

Date	Type of Med Exam	Actual Weight ( Kg)	IBW (Kg)	BMI ( kg)	% of overweight	Advice
19 Jun 09	Annual	71	66.5	23.99	6.77%	-
28 Oct 10	Annual	72	66.5	23.99	8.27%	-
12 Dec 11	Initial MB	73	70	24.74	4.29%	-
14 Mar 12	Recat	75	68	25.4	10.29%	-
25 Oct 13	Recat	76	67	25.76	13.43%	-
07 Apr 14	Recat	76	67	25.76	13.43%	-
07 Apr 15	Recat	76	67	25.76	13.43%	-
14 Apr 16	Recat	76	67	25.76	13.43%	-
03 May 17	Recat	76	67	225.76	11.94%	-
31 Oct 19	Recat	75	67	25.76	11.94%	-
03 Apr 21	Recat	75	67	25.4	11.94%	-
04 Oct 21	RMB	75	67	25.4	11.94%	-

however, it can also be seen that at the time of onset of both the disabilities, the applicant was found to be overweight but his weight was within the permissible limit during the onset of the disabilities (10% of Ideal Weight) and thus the applicant was not obese and his weight issue does not come in the way of the applicant seeking disability pension.

18. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is held entitled for the disability element of pension in respect of the disabilities i.e. Primary Hypertension (old) @ 30% for life and Diabetes Mellitus Type II (old) @20% for life along with rounding off benefit.

### **CONCLUSION**

19. In view of the above, OA 432 of 2024 is allowed. The respondents are directed to grant the disability element of pension to the applicant for the disabilities (Primary Hypertension (Old) @ 30% for life and Diabetes Mellitus Type II (Old) @ 20%) at compositely assessed disablement @ 40% for life, which be rounded off to 50% for life, with effect from the date of discharge in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of **Union of India**

***Vs. Ram Avtar (Civil Appeal No. 418/2012)*** decided on 10.12.2014.

20. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within three months from the date of receipt of copy of this order, *failing which*, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

21. There is no order as to costs.

Pronounced in open Court on this 20<sup>th</sup> day of August, 2025.

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)

/NMK/