

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 2033/2022 with MA 4269/2025

Capt (TS) Ravi Kumar Bontha (Retd.) Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. Shakti Chand Jaidwal,
Advocate
For Respondents : Mr. Rajeev Kumar, with
Ms. Shivani Kumari, Advocate

CORAM

**HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)**

ORDER

MA 4269/2025

Reply has been filed. There being delay of 68 days' delay in filing the same, this application has been filed by the respondents for condonation of delay. In view of the averments made, the delay is condoned and reply is taken on record.

Accordingly, MA stands disposed of.

2. Invoking the jurisdiction of this Tribunal; under Section 14, of the Armed Forces Tribunal Act, 2007, the instant OA has been filed praying for the following reliefs:

“(a) Call the relevant records of the applicant and after perusal thereof, set aside the impugned order dated 19.05.2022 passed by the respondents, rejecting second and final appeal of the applicant for grant of disability pension;

(b) Direct the respondents to treat applicant’s namely, IDs (i) Primary Hypertension, (ii) Coronary Artery Disease, (iii) Diabetes Mellitus, (iv) Dyslipidemia and (v) Asymptomatic Hyperuricaemia as Attributable to/ Aggravated by service.

(c) Direct the respondents to grant disability pension to the applicant @ 70% for life w.e.f 01.09.2020, as degree of his disablement has been assessed @ 70% for life by the RMB;

(d) Direct the respondents to pay disability pension to the applicant as enhanced rate of 75% for life from the date of his retirement from service i.e. 01.09.2020 by broad-banding his disabilities from 70% to 75% as per Govt. Policy dated 31.01.2001;

(e) Direct the respondents to pay to the applicant an interest @ 10% p.a on the arrears of disability pension w.e.f 01.09.2020 till the actual payment and/or;

BRIEF FACTS

3. The applicant was commissioned in the Indian Navy on 17.08.1987 and retired from the service on 31.08.2020 after rendering 33 years of regular service. As per the Release Medical Board proceedings dated 11.08.2020 held that the applicant is fit to be discharged

from service in low medical category S2A2(P)PMT for the disabilities “(i) Hypertension @ 30% for life (ii) Coronary Artery Disease @ 30% for life (iii) Diabetes Mellitus @ 20% for life (iv) Dyslipidemia @ 5% for life and (v) Asymptomatic Hyperuricaemia @ 20% for life with composite assessment of the disabilities @ 70% for life. Out of these, the disability “Coronary Artery Disease” (30%) was held as “aggravated by military service”, while the remaining disabilities, i.e., (i), (iii), (iv), and (v), were assessed as neither attributable to nor aggravated by military service, resulting in the net qualifying element for disability pension being recorded as Nil for life.

4. The applicant’s claim for disability pension was rejected by the competent authority vide letter no. IHQ MoD (N)/DPA Letter No. P/USPN/7976/DP/20 dated 30.03.2021, as the causal connection between the disability and military service could not be established in terms of Para 6 and 11 of the Appendix to MoD Letter No. 1(3)/2002/D(Pen/Pol) dated 18 January 2010. Accordingly, the applicant was found not eligible for the grant of disability pension.

5. Thereafter, the applicant's first appeal and second appeal for the grant of disability pension were also rejected vide letter dated 11.10.2021 and 19.05.2022 respectively, stating that the applicant was found not eligible for the grant of disability pension for the reasons mentioned therein. Aggrieved by the rejections of his claim for disability pension, the applicant has filed the present OA.

CONTENTIONS OF THE PARTIES

6. The learned counsel for the applicant submitted that the prayers made in the present OA are confined to the grant of disability element of pension in relation to the disability of Coronary Artery Disease @ 30% for life only and the prayer made for grant of disability element of pension in relation to disabilities of (i) Hypertension @ 30% for life (iii) Diabetes Mellitus @ 20% for life (iv) Dyslipidemia @ 5% for life and (v) Asymptomatic Hyperuricaemia @ 20% for life are not pressed.

7. The learned counsel for the applicant submitted that at the time of enrolment, the applicant was found mentally and physically fit for service and there is no note in the service documents that he was suffering from any disease at that time and the disabilities of the applicant were detected during

the service, hence the same are attributable to and aggravated by military service, and the respondents erred in rejecting the claim of disability pension stating that the RMB held the disability as neither attributable to nor aggravated by military service as the onset of the disease was in peace station. The learned counsel for the applicant contended that the instant matter is squarely covered by a catena of decisions of the Hon'ble Supreme Court including **Dharamvir Singh Vs. Union of India & Ors. [2013 (7) SCC 316** and the claim of the applicant is also supported by relevant rules.

8. The learned counsel for the applicant also placed reliance on the verdict of the Hon'ble Supreme Court of India in the case of ***UOI & Ors. Vs. Rajbir Singh***,(2015) 12 SCC 264 and ***UOI & Ors Vs. Angad Singh Titaria***,(2015) 12 SCC 257 wherein the law laid down by the Apex Court in *Dharamvir Singh (supra)* was followed and petitions for disability pension were allowed.

9. *Per contra*, learned counsel for the respondents submitted that the RMB, being an expert body, had already examined the applicant and found only one disability, *Coronary Artery Disease*, as aggravated by service. The onset of the disease was in a peace area and the applicant

continued to serve in peace postings. The First and Second Appellate Committees had also recorded detailed reasons for rejecting the claim. Hence, the OA deserves dismissal.

ANALYSIS

10. We have heard the learned counsel for the parties and have perused the record.

11. We have carefully examined the RMB proceedings, in original and found that in Part VII initially the disability Coronary Artery Disease was held as 'Aggravated' by military service, Part VII of the RMB proceedings is reproduced as under:-

**"PART VII
OPINION OF THE MEDICAL BOARD**

<i>Disability</i>	<i>Attributable to service (Y/N)</i>	<i>Aggravated by service(Y/N)</i>	<i>Detailed Justification</i>
<i>(ii) Coronary Artery Disease</i>	<i>No</i>	<i>Yes</i>	<i>Aggravated by military service vide Para 47(b) Chapter VI of GMO 2008 (Onset disability in the setting of diabetes mellitus)</i>

we would like to refer to Para 47, Chapter VI of the Guide to

Medical Officers (Military Pensions), 2008 for coming to a conclusion towards attributability or aggravation of the disability IHD, which reads 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 endocarditic, 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."

12. It is evident from the record that the RMB has already conceded the disability of the applicant, namely, Coronary Artery Disease as 'Aggravated by service' and the reasons for concluding so have also been mentioned in the proceedings. However, the competent pension sanctioning authority had interfered with the opinion of the RMB with regard to the disability of 'Coronary Artery Disease' and considered the same as NANA.

13. The issue of sanctity of the opinion of the Release Medical Board on its overruling by a higher administrative authority formation is no more Res Integra. The Hon'ble Supreme Court in the case of **Ex. Sapper Mohinder**

Singh vs Union of India & Others, in Civil Appeal No. 164 of 1993, decided on 14.01.1993, which has been followed in large number of cases by the Tribunal, has made it clear that without physical medical examination of a patient, a higher formation/administrative authority cannot overrule the opinion of a Medical Board. The relevant part of the aforesaid judgment is quoted below:-

“From the above narrated facts and the stand taken by the parties before us, the controversy that falls for determination by us is in a very narrow compass viz. whether the Chief Controller of Defence Accounts (Pension) has any jurisdiction to sit over the opinion of the experts (Medical Board) while dealing with the case of grant of disability pension, in regard to the percentage of the disability pension, or not. In the present case, it is nowhere stated that the Applicant was subjected to any higher medical Board before the Chief Controller of Defence Accounts (Pension) decided to decline the disability pension to the Applicant. We are unable to see as to how the accounts branch dealing with the pension can sit over the judgment of the experts in the medical line without making any reference to a detailed or higher Medical Board which can be constituted under the relevant

*instructions and rules by the Director General of
Army Medical Core.”*

14. Therefore, in light of the aforesaid judgment in **Ex Sapper Mohinder Singh** (*supra*) as well as records of the RMB, it is clear that the opinion qua the disability ‘Coronary Artery Disease’ of the RMB cannot be overruled by administrative authority. Hence, the decision of the competent authority is void in law. Therefore, we are of the view that the disability i.e. ‘Coronary Artery Disease’ of the applicant be considered as aggravated by military service as has been opined by the RMB.

15. The applicant served in the Indian Army for 33 years and the onset of the disability ‘Coronary Artery Disease’, occurred in September, 2009 after 21 years and even after being diagnosed with the disability of Coronary Artery Disease’. A perusal of the posting profile of the applicant reveals that throughout his service in Indian Navy, the applicant was posted to peace stations only. It has, already been observed by this Tribunal in a catena of cases that peace stations have their own pressure of rigorous military training and associated stress and strain of the service. It may also 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 and stress and strain of such a long service of almost 33 years cannot be overlooked and the disability i.e. 'Coronary Artery Disease' of the applicant has to be held to be attributable to and aggravated by the military service.

CONCLUSION

16. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is entitled for disability element of pension in respect of disability 'Coronary Artery Disease'. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% for life rounded off to 50% for life with effect from the date of his superannuation i.e. 31.08.2020, 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.

17. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of receipt of

copy of this order, *failing which*, the applicant will be entitled for interest @ 6% per annum from the date of receipt of copy of the order by the respondents.

18. No order as to costs.

Pronounced in the open Court on this 11th day of November, 2025.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

A

(RASIKA CHAUBE)
MEMBER (A)

Pooja