

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

B.

OA 1094/2019

Col (TS) Sehaj Pal Vashist (Retd) ..... Applicant  
VERSUS  
Union of India and Ors. .... Respondents

For Applicant : Mr. Shakti Chand Jaidwal, Advocate  
For Respondents : Ms. Barkha Babbar, Advocate

CORAM

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

ORDER  
22.07.2025

Judgment in this matter has been pronounced today vide a separate signed order. At the time of hearing, certain original documents were kept by us for perusal. Since the judgment in the matter has now been pronounced, these documents be returned to the respondents after taking due acknowledgement.

(JUSTICE NANDITA DUBEY)  
MEMBER (J)

(RASIKA CHAUBE)  
MEMBER (A)

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

ORDER

Aggrieved by the denial of disability element of pension, the applicant has filed the instant O.A under Section 14 of the Armed Forces Tribunal Act, 2007 seeking the following reliefs:

- (a) *Set aside the Impugned Order dated 28.09.2018 passed by the respondents rejecting first appeal of the applicant for grant of disability element of pension to him for his disability, namely, CORONARY ARTERY DISEASE POST CABG.*
- (b) *Direct the respondents to treat the disability of the applicant, namely, CORONARY ARTERY DISEASE POST CABG as attributable to/aggrieved by military service.*
- (c) *Direct the respondents to grant disability element of pension to the applicant @ 50% for life w.e.f. 01.03.2018, as degree of his disablement because of the said disability*

*has been assessed @ 50% for life by the RMB.*

- (d) Direct the respondents to pay disability element of pension to pay disability element of pension to the applicant at an enhanced rate @ 75% for life w.e.f. 01.03.2018 by rounding off/broad banding applicant's disability from 50% to 75% as per Govt. Policy dated 31.01.2001.*
- (e) Direct the respondents to pay to the applicant an interest @ 10% per annum on the arrears of disability pension w.e.f. 01.03.2018 and/or;*
- (f) Pass such order(s)/direction(s) as may be deemed appropriate in the facts and circumstance of the case.*

2. The facts of the case, in brief, are that after being thoroughly examined by medical experts and found suitably fit, the applicant was commissioned in the Indian Army on 20<sup>th</sup> December, 1986 and was discharged from service on 28<sup>th</sup> February, 2018 in low medical category P2 on completion of his terms of engagement. The Release Medical Board (RMB) assessed his disability 'CORONARY ARTERY DISEASE POST CABG' @ 50% for life. However, the RMB opined that the disease of the applicant was Neither Attributable to Nor Aggravated (NANA) by Military Service and onset of disease was in a peace area. His initial claim for disability pension was rejected by the respondents on 25<sup>th</sup> January, 2018. The first appeal preferred by the applicant was also dismissed vide letter

No.13416/C-44365/EME/MP-(F)/106/2018/Appeal/AG/PS-4(Imp-II) dated 28<sup>th</sup> September, 2018. The second appeal preferred on 16<sup>th</sup> November, 2018, as averred, has not yet been decided by the respondents. Hence the instant O.A.

3. Learned Counsel for the applicant submitted that the applicant was medically fit when he was enrolled in service and any disability not recorded at the time of recruitment should be presumed to have been caused subsequently. It is further submitted that due to tremendous pressure of the duties and responsibilities, the applicant suffered a heart attack and on detailed examination he was diagnosed a case of 'Acute Myocardina Infarction' which ultimately resulted in Coronary Artery Bypass Grafting surgery at Medanata Hospital, Gurugram and later based on the opinion of the Cardiologist, Command Hospital (Western Command) Chandimandir, his medical category was lowered to P3 (T-24) by the Initial Categorisation Medical Board held on 16<sup>th</sup> February, 2013 at Military Hospital, Shimla and thereafter upgraded to P2 (Permt) and categorised the disability attributable to exceptional mental and physical strain of military duties..

4. It is the contention of learned counsel for the applicant that the action of the respondents in denying disability pension to the applicant is illegal. In this regard, he relied on the decision of the Hon'ble Supreme Court in Dharamvir Singh Vs. Union of India and others [(2013) 7 SCC 316] and submitted that for the purpose of determining attributability of a disease to military service, what is material is whether the disability was detected during the initial pre-commissioning medical tests and if no disability was detected at that time, then it is to be presumed that the disability arose while in service, therefore, the disability of the applicant is to be considered as aggravated by service and he is entitled to get disability pension @ 50%. Further in terms of Para 7.2 of the Government of India, Ministry of Defence Notification No.1(2)/97/D(Pen-C) dated 31<sup>st</sup> January, 2001 and the judgment of the Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Ram Avtar (Civil Appeal No.418/2012) decided on 10<sup>th</sup> December, 2014, the disability of the applicant @50% is to be rounded off to 75% for life.

5. On the other hand, learned counsel for the respondents submitted that though the RMB had assessed the disability of the

applicant @ 50% for life, it opined that the disability is NANA due to onset in peace area. As such his claim for disability element of pension has rightly been rejected by the respondents. Learned counsel further submitted that the judgment in the case of *Dharamvir Singh* (supra) relied upon by the applicant has no application in the instant case as in that case the applicant was invalidated out from service whereas in the present case the applicant was discharged from service on completion of his term of engagement and his disability was held to be NANA. He submitted that the instant O.A does not have any merit and the same may be dismissed.

6. We have heard learned counsel for the parties. Additionally, we have also perused the documents available on record.

7. On considering the submissions made on behalf of the applicant, we note that the only reason for which the disability of the applicant has been opined as NANA by the RMB is that the disease has originated in peace area and has no association with field or high altitude area service. However, on further scrutiny, we have observed that the applicant developed 'CORONARY ARTERY DISEASE POST CABGS' in August 2012

after completion of 26 years of service. We are not convinced with the argument of learned counsel for the respondents that stress and strain of military service is limited to Field/HAA/CI Area and there is no stress and strain of military service in military stations located in peace areas. This Tribunal, negating this argument of Union of India, in a catena of orders, has granted benefits to the applicants. Hence, we are inclined to give benefit of doubt to the applicant in this case. Thus we are of the considered opinion that the disability **'CORONARY ARTERY DISEASE POST CABGS'** is to be considered as aggravated by military service in line with the law settled on this matter by the Hon'ble Apex Court in the case of *Dharamvir Singh* (supra). Additionally, the applicant will also be eligible for the benefit of rounding off from 50% to 75% for life, in terms of the decision of Hon'ble Supreme Court in *Ram Avtar* (supra).

8. Resultantly, the O.A is allowed. The impugned order is set aside. The applicant's disability **'CORONARY ARTERY DISEASE POST CABGS'** is held to be considered as aggravated by military service. The applicant is entitled to disability element of disability pension @ 50% for life, which shall be broad banded to 75% for life from the date of discharge,

i.e, 28<sup>th</sup> February, 2018. Respondents are directed to implement this order within four months from the date of receipt of a copy of this order. Default will invite interest @ 6% per annum.

9. No order as to costs.

10. Pending application(s), if any, also stand disposed off.

Pronounced in the open Court on this 22<sup>nd</sup> day of July, 2025.

(JUSTICE NANDITA DUBEY)  
MEMBER (J)

(RASIKA CHAUBE)  
MEMBER (A)

/vks/