

COURT NO. 3  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA 1095/2018

Ex Sea I (UW) Rishikesh Kumar Singh ..... Applicant  
Versus  
Union of India and Ors. .... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate  
For Respondents : Mr. Shyam Narayan, Advocate

CORAM

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

Dated: August, 2025
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ORDER

Seeking grant of disability pension, the applicant has approached this Tribunal by way of the present OA filed under Section 14 of the Armed Forces Tribunal Act, 2007. The reliefs claimed read as under :-

- “(a) To direct the respondents to place all medical records including medical boards and Release Medical Board conducted by the respondents for the perusal of the court.*
- (b) To quash the findings of RMB dated 08.05.2017 and directing the respondents to declare disabilities of the applicant as attributable or aggravated by service and set aside the letter dated 03.07.2017 denying disability pension to the applicant.*
- (c) To direct the respondents to grant disability pension to the applicant from the date of retirement i.e. 01.08.2017 for all disabilities.*

- (d) *To grant the broad banding of disability pension and found off the disability element from 80% to 100% from 01.08.2017 to file.*
- (e) *To direct the respondent to pay 12% interest on the arrears of pension and other benefits.*
- (d) *To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper."*

2. Briefly stated the facts are that the applicant was enrolled in the Indian Navy on 1<sup>st</sup> August, 2007 in medically fit condition. The applicant, after completion of his service, was released from service in low medical category S3A2(P) on 31<sup>st</sup> July, 2007. While being in service, the applicant was diagnosed with four disabilities viz. (i) Recurrent depressive disorder @ 40%; (ii) Mixed hearing loss @ 40%; (iii) Dyslipidemia @1.5% and (iv) Primary Hypertension @ 30%. The composite assessment for all these disabilities was made @ 80%. The disabilities (i), (iii) and (iv) were held to be neither attributable to nor aggravated by service whereas the net assessment qualifying for disability pension for the disability (ii) Mixed Hearing Loss was made at 20% for life and held to be aggravated by service. The applicant was thus sanctioned disability pension but it was not broad banded. The First Appeal filed on 18<sup>th</sup> November, 2017, as pleaded by the applicant, was not replied even after expiry of six months,

hence this OA.

3. Learned counsel for the applicant submitted that at the time of enrolment, the applicant was found medically and physically fit for service and there is no note in the service documents to the contrary. It is the contention of learned counsel for the applicant that his disabilities are as a result of service conditions and postings at field areas including physical and mental harassment during posting at ASW School which were taxing and required high performance in terms of physical and mental abilities. It is thus submitted that the disabilities suffered by the applicant are due to military service hence he is entitled to disability pension for the disabilities (i), (iii) and (iv). Learned counsel for the applicant contended that with great disregard to various rules and judgments rendered on the subject, the respondents have denied disability pension to the applicant on frivolous grounds. In this regard he placed reliance on Rules 5 and 14(b) of the Entitlement Rules for Casualty Pensionary Awards for the Armed Forces Personnel 1982. Rule 5 and 14 (b) thereof read as under:

*“5. The approach to the question of entitlement to casualty pensionary awards and evaluation of disabilities shall be based on the following presumptions:-*

*Prior to and during service*

- 14(b)*

(a)  $XX$   $XX$

4. In support of his submissions, learned counsel for the applicant relies on the judgment of this Tribunal in the case of Air Marshal S.S. Soman Vs. Union of India and Ors. (OA 654/2016) decided on 5<sup>th</sup> July, 2016 and also on the judgment of the Hon'ble Supreme Court in the case of Dharamvir Singh Vs. Union of India and Ors. ([2013] 7 SCC 316). Further reliance is also placed on the judgment of the Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Ram Avtar (CA 418/2012) decided on 10<sup>th</sup> December, 2014.

5. Further reliance is also placed on the decisions in Ex Naik Saroj Kumar Mishra Vs. Union of India and Others (O.A. No. 172/2020) decided on 27<sup>th</sup> September, 2021 and JWO Rama Shankar (Retd.) Vs. Union of India and Others (O.A. No. 459/2024) decided on 12<sup>th</sup> November, 2024) by the Lucknow Bench of this Tribunal. In both cases, the Regional Bench of this Tribunal held that when a disability arises during the course of service and no cogent reasons are recorded by the Medical Board to negate attributability or aggravation, the presumption under law must operate in favour of the claimant. It was further held that mere labelling of a disability as “neither attributable to nor aggravated by service”, without adequate justification, cannot defeat a soldier’s statutory entitlement to disability pension. Relying on these rulings, it is contended that the applicant is entitled to disability pension for the disabilities (i), (iii), and (iv), with the benefit of broad banding, as the respondents have not discharged their burden to rebut the presumption of attributability or aggravation.

6. Per contra, the respondents, through a detailed counter affidavit, justified the denial of disability pension for disabilities (i), (iii) and (iv) by contending that these conditions were correctly assessed as neither attributable to nor

aggravated by Naval service. It was submitted that, prior to 1<sup>st</sup> January, 2016, the benefit of broad banding was applicable only to personnel invalidated out of service and not to those discharged on completion of terms of engagement. The applicant has already been granted rounding off of disability pension from 20% to 50% for disability (ii), which was found aggravated by Naval service. While admitting that the applicant did not suffer from any disability prior to enrolment, the respondents argued that the mere onset of disease during service does not automatically imply attributability. Such determination requires clear evidence showing that the disease was caused or aggravated by factors related to military service. The Release Medical Board, after examining the applicant's medical records and service conditions, found no causal connection between Naval service and disabilities (i), (iii) and (iv), and thus declared them as neither attributable to nor aggravated by service. Consequently, in terms of Regulation 101 of the Naval (Pension) Regulations, 1964, the applicant is not entitled to disability pension for these disabilities, and therefore, the question of granting broad banding does not arise.

7. Having heard the learned counsel for both parties and on perusal of records, for adjudication of this OA the following questions arise for determination:

- (i) Whether the respondents were justified in denying the applicant disability pension in respect of disabilities (i), (iii) and (iv)?
- (ii) Whether, in the facts and circumstances of the case, the applicant is entitled to disability pension for the said disabilities, with the benefit of broad banding and rounding off?

8. For the decision of these questions, it is relevant here to refer to the opinion of the Medical Board in Part V of the Release Medical Board proceedings which reads as under:

**PART V**  
**OPINION OF THE MEDICAL BOARD**

1. Causal relationship of the Disability with Service conditions or otherwise				
Disability	Attributable to service Y/N	Aggravated by Service Y/N	Note connected with Service Y/N	Reason/Cause/Specific condition and period in service
(1) RECURRENT DEPRESSIVE DISORDER (CURRENT EPISODE MODERATE) (ICS NO.F33.1)	NO	NO	YES	NEITHER ATTRIBUTABLE NOR AGGRAVATED BY MILITARY SERVICE VIDE PARA 54, CHAPTER VI OF GMO (MP) 2008. ONSET OF DISABILITY WHILE POSTED ASHORE
(2) B/L MIXED HEARING LOSS (ICD NO.H 90.6)	NO	YES	NO	YES, VIDE PARA 23, CHAPTER VI OF GMO (MP) 2008. H/O LOUD NOISE EXPOSURE OF SMALL ARMS FIRING
(3) DYSLIPIDEMIA (ICD NO.E 78.2)	NO	NO	YES	NEITHER ATTRIBUTABLE NOR AGGRAVATED BY MILITARY SERVICE,

(4) PRIMARY HYPERTENSION (ICD No.I 10.0)	NO	NO	YES	LIFE STYLE DISEASE NEITHER ATTRIBUTABLE NOR AGGRAVATED BY MILITARY SERVICE VIDE PARA 43, CHAPTER VI OF GMO (MP) 2008. ONSET OF DISABILITY WHILE POSTE ASHORE
Note: A disability "not connected with service" would be neither Attributable nor aggravated by service (This is in accordance with instructions contained in 'Guide to Medical Officers (Mil Pension) 2002)				

9. The disability of Recurrent Depressive Disorder is a psychiatric condition of constitutional and idiopathic origin. Though it has been assessed @ 40% but the onset of the disability has occurred while the applicant was posted to a non-operational ashore station without exposure to any service related stressors or exigencies.

10. Para 54 of the Guide to Medical Officers (Military Pensions) 2002, as amended in 2008, provides for details of the factors which have a bearing on attributability and aggravation of psychiatric disorders. This para reads as under:

*"54. Mental & Behavioural (Psychiatric Disorders*

*Psychiatric illness results from a complex interplay of endogenous (genetic/biological) and exogenous (environmental, psychosocial as well as physical) factors. This is true for the entire spectrum of psychiatric disorders (Psychosis & Neurosis) including substance abuse disorders. The relative contribution of each, of course, varies from one diagnostic category to another and from case to case.*

*The concept of attributability or aggravation due to the stress and strain of military service can be, therefore, evaluated independent of the diagnosis and will be determined by the specific circumstances of each case.*

*(a) Attributability will be conceded where the*



*psychiatric disorder occurs when the individual is serving in or involved in:-*

- (i) Combat area including counterinsurgency operational area*
  - (ii) HAA service.*
  - (iii) Deployment at extremely isolated posts*
  - (iv) Diving or submarine accidents, lost at sea.*
  - (v) Service on sea.*
  - (vi) MT accidents involving loss of life or Flying accidents (both as flier and passenger) in a service aircraft or aircraft accident involving loss of life in the station.*
  - (vii) Catastrophic disasters particularly while aiding civil authorities like earthquake, cyclone, 41 tsunami, fires, volcanic eruptions (where one has to handle work in proximity of dead or decomposing bodies)*
- (b) Attributability will also be conceded when the psychiatric disorder arises within one year of serious/multiple injuries (e.g. amputation of upper/lower limb, paraplegia, quadriplegia, severe head injury resulting in hemiplegia of gross neurocognitive deficit which are themselves considered attributable to military service. This includes Post Traumatic Stress Disorder (PTSD).*
- (c) Aggravation will be considered in Psychiatric disorders arising within 3 months of denial of leave due to exigencies of service in the face of:*
- (i) Death of parent when the individual is the only Child/son.*
  - (ii) Death of spouse or children.*
  - (iii) Heinous crimes (e.g. murder, rape or dacoity) against members of the immediate family.*
  - (iv) Reprisals or the threat of reprisals against members of the immediate family by militants/terrorists owing to the fact of the individual being a member of the Armed Forces.*
  - (v) Natural disasters such as cyclones/earthquakes involving the safety of the immediate family.*
  - (vi) Marriage of children or sister when the individual is the only brother thereof and specially if their father is deceased.*
- (d) Aggravation will also be conceded when after being diagnosed as a patient of psychiatric*

*disorder with specific restrictions of employability the individual serves in such service environment which worsened his disease because of the stress and strain involved like service in combat area including counterinsurgency operations, HAA, service on board ships. Flying duties.*

- (e) *Attributability may be granted to any psychiatric disorder occurring in recruits and results in invalidment from service only when clearly identifiable severe stressors including sexual abuse or physical abuse are present as causative factor/factors for the illness."*

11. Applying the above parameters to the case at hand, we find that there is no record to show, even a remote causal link to any service related trauma, which can be considered a contributing factor to the mental condition of the applicant.

12. So far as the disability of Dyslipidamia assessed @ 1.5% is concerned, it is a metabolic disorder, primarily arising from lifestyle factors such as diet, physical inactivity and genetic predisposition and is recognized as a condition of constitutional origin and since it has been assessed less than 20%, the minimum percentage to claim disability pension, the applicant is not entitled to any benefit.

13. The Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Wing Commander S.P. Rathore [Civil Appeal No. 10870/2018] decided on 11.12.2019, has held that the disability element is not admissible if the disability is less than 20% and in such a circumstance the question of rounding-

off would also not apply. If a person is not entitled to the disability pension, there would be no question of rounding off.

Relevant paras of the said judgment read as under:

*“1. The short question involved in this appeal filed by the Union of India is whether disability pension is at all payable in case of an Air Force Officer who superannuated from service in the natural course and whose disability is less than 20%.*

*xxx*

*xxx*

*xxx*

*8. This Court in Ram Avtar (supra), while approving the judgment of the Armed Forces Tribunal only held that the principle of rounding off as envisaged in Para 7.2 referred to herein above would be applicable even to those who superannuated under Para 8.2. The Court did not deal with the issue of entitlement to disability pension under the Regulations of Para 8.2.*

*9. As pointed out above, both Regulation 37(a) and Para 8.2 clearly provide that the disability element is not admissible if the disability is less than 20%. In that view of the matter, the question of rounding off would not apply if the disability is less than 20%. If a person is not entitled to the disability pension, there would be no question of rounding off.”*

Moreover, the issue as to whether the disability assessed at 1.5% by the Medical Board is to be taken as 20% or not has been exhaustively dealt with by the Tribunal in the case of Sgt Vijay Prakash (Retd.) Vs. Union of India and Ors. [O.A. No. 2200 of 2021] decided on 13.10.2022, wherein, after taking into account various judgments of the Hon'ble Supreme Court and policy letters, the Tribunal dismissed the claim of disability pension as the disability was assessed at less than 20%.

14. In the light of the above and the fact that both the disabilities have been held to be NANA, therefore, in the absence

of evidence linking the onset or progression of the disorder to the conditions of service, the claim for disability pension in respect of these disabilities (i) Recurrent depressive disorder @ 40% and (iii) Dyslipidemia @1.5% is unsustainable and liable to be rejected.

15. As far as claim of disability pension in respect of (iv) Primary Hypertension is concerned, this Tribunal in a catena of orders, under similar circumstances, has granted benefit to the applicant. In the case before us it is revealed during the course of arguments that the applicant all through the service has maintained his body weight so the disability cannot be considered as self inflicted and is thus attributable to military service. Taking into these factors, we hold that the applicant is entitled to disability pension in respect of his disability of Primary Hypertension assessed @ 30%.

16. Consequently, the OA is partly allowed in the above terms.

17. Before parting with the order we may, however, note that since the applicant is already in receipt of disability pension for his disability of Mixed Hearing Loss assessed at 20% and rounded off to 50% and now in view of our finding that he is further entitled to disability pension for the disability of Primary Hypertension assessed @ 30%, it is directed that his total

composite pension shall again be calculated by aggregating both entitlements, i.e., Mixed Hearing Loss assessed at 20% and Primary Hypertension assessed @ 30%, and thereafter the benefit of rounding off will be applied on the composite assessment to be determined by the respondents within a period of four weeks from the date of receipt of this order.

18. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 5<sup>th</sup> day of August, 2025.

[JUSTICE NANDITA DUBEY]  
MEMBER (J)

[RASIKA CHAUBE]  
MEMBER (A)

/vks/