

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

OA 1099/2022 WITH MA 1499/2022

Ex MWO (Hony Flt Lt) Ram Niwas Singal ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant - Mr. Kritendra Tiwari, Advocate

For Respondents - Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM :

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

HON'BLE LT GEN CP MOHANTY, MEMBER (A)

ORDER

MA 1499/2022

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648], the delay in filing the OA is condoned.

2. MA stands disposed of.

OA 1099/2022

3. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA praying to direct the respondents to accept the disabilities of the applicant as attributable to/aggravated by Air Force service and grant disability

element of pension @15-19% rounded of to 50% with effect from the date of discharge of the applicant; along with all consequential benefits.

4. The applicant was enrolled in the Indian Air Force on 19.03.1964 and discharged from service on 31.08.2003 under the clause on "On attaining the age of superannuation". The RMB not solely on medical grounds was held dated 28.03.2003 and found the applicant fit to be released in low medical category A4G4 and suffering from the ID – 'CAD (Post CABG) PTCA @15-19% with the RMB having opined the disability as being neither attributable to nor aggravated by Air Force service.

5. The disability pension claim of the applicant was rejected vide letter No. Gts/AF/Cell/2004/Dis./Fresh/1400 dated 17.09.2004 and the same was communicated to the applicant vide letter No.RO/2703/272852/08/03/P&W (DP) dated 05.11.2024. Subsequently, the applicant submitted a representation on 23.09.2021 which was rejected vide letter no. Air HQ/99798/5/1st Appl/272852/DP/DAV dated 26.10.2021, on the ground

that the aforesaid representation was time-barred. Aggrieved, the applicant has preferred this OA.

Submissions on behalf of the Applicant

6. The applicant submitted that he has attained the present disability after serving for a long period of 20 years which makes it clear that the disease was not pre-existing and his disability was due to service, and has subsequently served for more than 18 years after the detection of the disability. The applicant has further submitted that at the time he was inducted into the Indian Air Force, he was medically fit and after having undergone a thorough medical examination at the Training Centre, he was posted to various places during his service. Further, he places reliance of Guide to Medical Officers, 2002 to contend that the aforesaid disability of the applicant could not have been assessed at less than 30%.

7. Inter alia, the applicant places reliance on the verdict of the Hon'ble Supreme Court in Dharamvir Singh Vs UOI & Ors [(Civil Appeal No 4949/2013) 2013 AIR SCW 4236], UOI & Ors. Vs Rajbir in Civil Appeal No. 2904/2011, decided on 13.02.2015, in the case of Sukhvinder Singh Vs UOI &

Ors [2014 STPL (Web) 468 SC] in UOI & Ors Vs Manjit Singh (AIR 2015 SC 2114), and the judgement of Hon'ble Delhi High Court in Union of India & Ors. Vs Col Balbir Singh [2025: DHC:5082-DB] to contend to the effect that in as much as in the absence of any cogent reasons recorded by the Medical Board for the cause of the disability that had arisen during the course of service of the applicant and with which the applicant did not suffer at the time of enrolment into the Air Force Service, the same has to be presumed to have arisen in the course of Air Force service. The applicant also submits that in terms of the verdict dated 10.12.2014 of the Hon'ble Supreme Court in UOI Vs Ram Avtar in Civil Appeal No.418/2012; the applicant is entitled to rounding off of the disability pension assessed @20% for life to 50% for life from the date of discharge.

Submissions on behalf of Respondents

8. The respondents through the counter affidavit dated 08.05.2023 filed on their behalf submit to the effect that as per Rule 153 of the Pension Regulations for Air Force, 1961 (Part-I), the disability pension is granted

to those who fulfill the following two criteria simultaneously:-

(i) Disability must be either attributable to or aggravated by service.

(ii) Degree of disablement should be assessed at 20% or more.

9. The respondents further place reliance on Para-5 of 'Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008, and submit that the mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service.

Consideration

10. Before proceeding to examine the issue of attributability, we find it pertinent to refer to Para 21(h) of Chapter VII of Guide to Medical Officers (Military Pension), 2002 which was in force at the time of discharge of the applicant:

(h) Assessment based on treatment modality offered for IHD

The assessment is independent of NYHA assessment and not to be combined with NYHA assessment.

<i>(i) PTCA done</i>	<i>40-50%</i>
<i>(ii) CABG in triple vessel disease</i>	<i>50-100%</i>

11. It is clearly visible from the aforesaid Para 21(h) of Chapter VII of Guide to Medical Officers (Military Pension),

2002 that wherein PTCA has been done, the disability of CAD could not have been assessed at less than 30%, since no such assessment has been provided herein. We note that the in the case of applicant, the PTCA has been done, as is evident from the disability recorded at Para 3(c)& Para 6 of Part II – Medical Examination, and Para 1 & Para 6 of Part V – Opinion of the Medical Board, which shows the disability to be – ‘*CAD (Post CABG) PTCA done*’, wherein which, we are of the opinion that the disability should have been assessed at not less than 30% in any case, and thus, we hold that the disability of the applicant in the instant case shall be presumed to be 30% for further consideration.

12. Moving forward on the issue of attributability, on a consideration of the submissions made on behalf of either side, it is essential to observe that the factum that as laid down by the Hon’ble Supreme Court in *Dharamvir Singh (Supra)*, a personnel of the Armed forces has to be presumed to have been inducted into military service in a fit condition, if there is no note or record at the time of entrance in relation to any disability, in the event of his subsequently being discharged from service on medical grounds the disability

has to be presumed to be due to service unless the contrary is established, - is no more *res integra*.

13. The ratio of the verdicts in Dharamvir Singh Vs UOI & Ors (Civil Appeal No. 4949/2013) [(2013) 7 SCC 316], Sukhvinder Singh Vs UOI & Ors, dated 25.06.2014 reported in 2014 STPL (Web) 468 SC, UOI & Ors. Vs Rajbir Singh [(2015) 12 SCC 264] and UOI & Ors versus 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.

14. Additionally, 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 has also to 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. The onset of the disability of 'CAD (Post CABG) PTCA' as reflected in the RMB is in Oct 1984 at AF Stn Palam, Delhi after 20 years of service in the Indian Air Force, with a total of 6 postings before the onset of the disability involving one

Field Posting and thus, the cumulative stress and strain of the service tenure where the applicant was exposed to severe conditions cannot be overlooked.

15. It is pertinent to record that the judgements of this Tribunal adjudicated and allowed in consonance with the settled position laid down by Hon'ble Supreme Court in *Dharamvir Singh* (supra), were assailed by the respondents before Hon'ble Delhi High Court in *Union of India v. Col Balbir Singh* [WP (C) No. 140/2024; 2025: DHC: 5082-DB], wherein the said Writ Petitions were dismissed.

16. With respect to the contentions raised by the Respondent that the applicant was constantly overweight, we find on perusal of the Specialist Opinion of Lt. Col. S.D. Makbool, Classified Specialist, Base Hospital placed as Annexure R-1, at Page 164 of the Court proceedings that the applicant is not obese. Nevertheless, with respect to obesity, we find reliance of the observation of the Hon'ble Delhi High Court in *Union of India through Secretary of Defence & Ors. Vs Maj Gen Rajesh Chhaba* [2025:DHC:5083-DB] wherein while adjudicating an identical issue of Obesity being a contributory factor for onset of CAD, placed reliance on the

judgement of coordinate bench in Union of India &Ors. Vs Ex JWO Dharmendra Prasad [2025:DHC:2740-DB] and held as under:

22. Turning now to the argument of the petitioners that the disabilities suffered by the respondent were related to his own lifestyle, particularly his failure to maintain good health resulting in Obesity, it would be apposite to note the decision of the Co-ordinate Bench in Union of India &Ors. v. Ex JWO Dharmendra Prasad, 2025:DHC:2740-DB, wherein the issue concerning the impact of the respondent's Obesity was considered and it was held as under:

"11. The mere fact that the respondent may be obese does not of necessity mean that the CAD from which he suffers is necessarily attributable to obesity. No medical report, to that effect, has been shown to us by Mr Mishra.

12. In fact, the RMB Report does not even suggest that the CAD, from which the respondent was found to be suffering, was attributable to obesity. Neither does para 47 of the 2008 Guidelines state that in every case of obesity and CAD, the CAD would be attributable to obesity.

13. We have seen the medical examination report, which has also been placed on record. The said examination report also does not certify that the respondent's CAD was attributable to obesity"

23. A plain reading of the above makes it evident that merely suffering from Obesity, by itself, does not ipso facto render the other disabilities such as Primary Hypertension, Diabetes Mellitus, and Coronary Artery Disease in the Force personnel attributable to Obesity. Moreover, the RMB has also not made any observation regarding the effect of Obesity on the other medical conditions of the respondent.

24. In the present cases, from a perusal of the RMB proceedings, it is evident that the opinion of the RMB also does not mention that the respondent's condition of Obesity was the cause or basis for the development of his disability. The RMB has merely pointed out that the respondent was suffering from Simple Obesity. The learned

Tribunal did not treat the Simple Obesity as a disability, since the respondent did not press for disability pension for the same.

25. Accordingly, in view of the facts and circumstances, we find no reason to interfere with the order of the learned Tribunal.”

Conclusion

17. Therefore, in line with the settled position laid down by the Apex Court in Dharamvir Singh (supra) and followed by Delhi High Court in Col Balbir Singh (supra), and this Tribunal in MWO Biswanath Paul (Retd.) Vs Union of India & Ors. [OA 181/2022; AFT PB; Date of decision:- 31.05.2023], and with no reason to differ from the aforesaid judgements in line with the judgement of Larger Bench of this Tribunal in Hav Raj Kumar Vs UOI & Ors [OA 57/2020; AFT RB Jabalpur: Date of decision – 14.03.2024], this OA 1099/2022 is allowed and the applicant is held entitled to the grant of the disability element of pension qua the disability of ‘CAD (Post CABG) PTCA Done @ 30% for life which in terms of the verdict of the Hon’ble Supreme Court of India in UOI & Ors. Vs Ramavtar, [Civil Appeal 418/2012: Date of judgment -10.12.2014] is rounded off to 50% for life from the date of discharge. However, owing to the delay in institution of this OA, and the settled law laid down by Hon’ble Supreme Court in Union of India and others Vs.

Tarsem Singh [2008 (8)SCC 649], the arrears shall be restricted to 3 years prior to the date of filing of OA. [Date of filing of OA: 27.04.2022]

18. The respondents are directed to calculate, sanction and issue the necessary Corrigendum PPO to the applicant within three months from the date of receipt of the copy of this order and in the event of default, the applicant shall be entitled to the interest @6% per annum on the arrears till the date of payment.

19. No order as to costs.

20. Pending miscellaneous application(s), if any, are disposed of.

Pronounced in the open Court on 1st day of September 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[LT GEN CP MOHANTY]
MEMBER (A)

Akc/