

**COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA 1321/2019**

**Sgt Manmohan Dutt(Retd)**

**..... Applicant**

**VERSUS**

**Union of India and Ors.**

**..... Respondents**

**For Applicant**

**:** Mr. BP Vaishnav, Advocate with  
Mr. Brijesh Kumar, Advocate

**For Respondents**

**:** Mr. KK Tyagi, Sr. CGSC  
Mr. Pankaj Sharma, DAV, Legal Cell

**CORAM**

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

**ORDER**

The applicant vide the present OA makes the following  
prayers :

***“(a) To direct the respondents to grant the applicant with the 50% disability from the date of discharge i.e. 01.10.2006  
(b) To direct the respondents to pay arrears from the date of discharge i.e. 01.10.2006 along with interest @12% per annum till its payment to the applicant.  
(c) Pass any other order or orders as deemed fit to this Hon'ble Tribunal in order to secure the ends of justice in favour of the applicant.”***

**FACTS BROUGHT FORTH THROUGH PLEADINGS ON**

**RECORD**

2. The applicant 686741-F Sgt Manmohan Dutt was enrolled in the Indian Air Force on 18.09.1986 and was discharged from service on 30.09.2006 under the clause on "On fulfilling the conditions of enrolment" after rendering total 20 years and 13 days of regular service. At the time of release, the applicant underwent the RMB dated 16.12.2005 which as approved on 20.06.2006 opined the applicant to be suffering from the disability of Psoriatic Arthropathy Z-79,Z-09.0 with its onset on 17.03.1998 at Ambala whilst the applicant was posted at 3 SQN AF in the peace station which disability was assessed with a percentage of disablement of 30% for life. The applicant was released in medical category A4G3(P) on 30.09.2006. The original proceedings inclusive of the clinical assessment were produced by the respondents and have been perused by this Tribunal.

### **CONTENTIONS RAISED**

3. The applicant has submitted to the effect that this disability of Psoriatic Arthropathy Z-79,Z-09.0 with its onset on 17.03.1998 after the applicant was inducted in the Indian Air Force on 18.09.1986, after a period of approximately 12 years, was due to the excessive strain of his work profile, he having been deputed in the trade of an Electric Fit on machines and radars. It has further been submitted by the applicant that as per the Part-I of the Personal Statement of the RMB proceedings dated 30.09.2006 vide Para-4 thereof, it is recorded to the effect:-

***“4. Did you suffer from any disability mentioned in question 2 or anything like it before joining the Armed Forces? So, give details and dates. NO ”,-***

**and it is thus apparent that the applicant suffered from no disability at the time of joining the Indian Air Force. The applicant has further placed reliance on the Medical Case Sheet dated 09.12.2005 of the Command Hospital(Central Command) Lucknow which states that the applicant was advised not to lift heavy weights and was advised to avoid**

**prolonged standing.** The applicant has thus submitted that the disability that he suffers from is wholly attributable and aggravated by military service and reliance has thus been placed on behalf of the applicant on Para-30(a) of the GMO(MP), 2002 as applicable at the relevant time, the applicant having been discharged from the Indian Air Force on 30.09.2006.

4. Para-30 of the GMO(MP), 2002 reads to the effect:-

***“30. Disorders of Immune Dysregulation***

***These can be classified as :-***

***(a) Arthritides***

***(b) Vasculitides***

***(c) Systemic lupus erythromatosis***

***(d) Inflammatory myositis***

***(e) Systemic sclerosis***

***Disease of various other etiologies like infections, metabolic disorders, degenerative diseases can have presentation in the above classes and need to be excluded. The etiology of these various diseases of immune dysregulation is not definitely known but involve an interplay of genetic (HLA associated) and environmental (foreign antigens) agents which cause an immunological attack against the self (autoimmunity).***

***(a) Arthritides: This includes Spondylo-arthropathy(seronegative) Rheumatoid arthritis (Sero-positive). Spondylo-arthropathy have a constellation of diseases like unclassified spondylo-arthropathy, ankylosing spondylitis, reactive arthritis, psoriatic arthritis, Reiter's syndrome and***



**enteropathic arthiritis. All these are aggravated by physical stress of service like training, marching and prolonged standing.**

**(b) xxxx**

**(c) xxxx**

**(d) xxx**

**(e) xxxx”**

5. The applicant thus submitted that in terms of Para-30(a) of the GMO(MP), 2008 itself, Psoriatic Arthrities is aggravated by physical stress of service like training, marching and prolonged standing. It is further been submitted on behalf of the applicant that Psoriatic Arthrities would encompass within it, Psoriatic Arthropathy, for whilst arthropathy refers to any diseases affecting the joints, arthritis is a form of joint diseases and arthropathy encompasses a wider range of joint disorders including degeneration and structural abnormalities. Reliance was also placed on behalf of the applicant on the order dated 08.04.2024 of this Tribunal in OA 967/2018 in **Gp Capt Ajai Kumar Agnihotri(Retd) vs. UOI & Ors.** wherein the applicant thereof who was suffering from Psoriatic Arthritis with a percentage of 30% for life was granted the benefit of disability element of pension qua the said disability.

6. On behalf of the respondents, it was contended that as per Part-V of the Opinion of the Medical Board which was held on 05.04.2006, it had been opined to the effect:-

“

**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)	Not Connected with Service(Y/N)	Reason/Cause/Specific Condition and period in Service
Psoriatic Arthropathy Z-79, Z-09.0	<b>NO</b>	<b>NO</b>	<b>YES</b>	<b>The disability is constitutional in nature. The condition of military service did not determine or contribute to the onset or disease or its subsequent cause hence not connected to service.</b>

”

and it was thus sought to be submitted on behalf of the respondents that in as much as the disability of the applicant was constitutional in nature, thus there was no causal connection between the military service and the disability.

**ANALYSIS**

7. On a consideration of the said submissions that have been made on behalf of either side, it is essential to observe that the matter in issue is no more *res integra* in view of the

verdict dated 02.07.2013 of the Hon'ble Supreme Court in **Dharamvir Singh vs. UOI & Ors.** in Civil Appeal no. 4949/2013 decided on 02.07.2013 whereby vide Para-28 thereof, it has been observed to the effect:-

*"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."*

8. The verdict of the Hon'ble Supreme Court of India in **UOI & Ors. vs. Rajbir Singh** in Civil Appeal no. 2904/2016 dated 03.02.2015 vide Paras-12 to 15 thereof observes to the effect-

*"12. Reference may also be made at this stage to the guidelines set out in Chapter-II of the Guide to Medical Officers (Military Pensions), 2002 which set out the "Entitlement: General Principles", and the approach to be adopted in such cases. Paras 7, 8 and 9 of the said guidelines reads as under:*

*"7. Evidentiary value is attached to the record of a member's condition at the commencement of service, and such record has, therefore, to be accepted unless any different conclusion has been reached due to the inaccuracy of the record in a particular case or otherwise. Accordingly, if the disease leading to member's invalidation out of service or death while in service, was not noted in a medical report at the commencement of service, the inference would be that the disease arose during the period of member's military service. It may be that the inaccuracy or incompleteness of service record on entry in service was due to a non-disclosure of the essential facts by the member e.g. pre-*

enrolment history of an injury or disease like epilepsy, mental disorder, etc. It may also be that owing to latency or obscurity of the symptoms, a disability escaped detection on enrolment. Such lack of recognition may affect the medical categorisation of the member on enrolment and/or cause him to perform duties harmful to his condition. Again, there may occasionally be direct evidence of the contraction of a disability, otherwise than by service. In all such cases, though the disease cannot be considered to have been caused by service, the question of aggravation by subsequent service conditions will need examination.

[pic] The following are some of the diseases which ordinarily escape detection on enrolment:

- (a) Certain congenital abnormalities which are latent and only discoverable on full investigations e.g. Congenital Defect of Spine, Spina bifida, Sacralisation,
  - (b) Certain familial and hereditary diseases e.g. Haemophilia, Congenital Syphilis, Haemoglobinopathy.
  - (c) Certain diseases of the heart and blood vessels e.g. Coronary Atherosclerosis, Rheumatic Fever.
  - (d) Diseases which may be undetectable by physical examination on enrolment, unless adequate history is given at the time by the member e.g. Gastric and Duodenal Ulcers, Epilepsy, Mental Disorders, HIV Infections.
  - (e) Relapsing forms of mental disorders which have intervals of normality.
  - (f) Diseases which have periodic attacks e.g. Bronchial Asthma, Epilepsy, Csom, etc.
8. The question whether the invalidation or death of a member has resulted from service conditions, has to be judged in the light of the record of the member's condition on enrolment as noted in service documents and of all other available evidence both direct and indirect.

***In addition to any documentary evidence relative to the member's condition to entering the service and during service, the member must be carefully and closely questioned on the circumstances which led to the advent of his disease, the duration, the family history, his pre-service history, etc. so that all evidence in support or against the claim is elucidated. Presidents of Medical Boards should make this their personal responsibility and ensure that opinions on attributability, aggravation or otherwise are supported by cogent reasons; the approving authority should also be satisfied that this question has been dealt with in such a way as to leave no reasonable doubt.***

9. On the question whether any persisting deterioration has occurred, it is to be remembered that invalidation from service does not necessarily imply that the member's health has deteriorated during service. The disability may have been discovered soon after joining and the member discharged in his own interest in order to prevent deterioration. In such cases, there may even have been a temporary worsening during service, but if the treatment given before discharge was on grounds of expediency to prevent a recurrence, no lasting damage was inflicted by service and there would be no ground for admitting entitlement. Again a member may have been invalided from service because he is found so weak mentally that it is impossible to make him an efficient soldier. This would not mean that his condition has worsened during service, but only that it is worse than was realised on enrolment in the army. To sum up, in each case the question whether any persisting deterioration on the available [pic]evidence which will vary according to the type of the disability, the consensus of medical opinion relating to the particular condition and the clinical history."

13. In Dharamvir Singh's case (*supra*) this Court took note of the provisions of the Pensions Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers to

sum up the legal position emerging from the same in the following words:

*"29.1. Disability pension to be granted to an individual who is invalided 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 to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).*

*29.2. 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 read with Rule 14(b)].*

*29.3. The 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).*

*29.4. 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)]. [pic] 29.5. 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 [Rule 14(b)].*

*29.6. 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 [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."*

*14. Applying the above principles this Court in Dharamvir Singh's case (supra) found that no note of any disease had been recorded at the time of his acceptance into military service. This Court also held that Union of India had failed to bring on record any document to suggest that Dharamvir was under treatment for the disease at the time of his recruitment or that the disease was hereditary in nature. This Court, on that basis, declared Dharamvir to be entitled to claim disability pension in the absence of any note in his service record at the time of his acceptance into military service. This Court observed:*

***"33. In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of the Entitlement Rules for Casualty Pensionary Awards, 1982, the appellant is entitled for presumption and benefit of presumption in his favour. In the absence of any evidence on record to show that the appellant was suffering from "generalised seizure (epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service."***

*15. The legal position as stated in Dharamvir Singh's case (supra) is, in our opinion, in tune with the Pension Regulations, the Entitlement Rules and the Guidelines issued to the Medical Officers. The essence of the rules, as seen earlier, is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into service if there is no note or record to the contrary*



*made at the time of such entry. More importantly, in the event of his subsequent discharge from service on medical ground, any deterioration in his health is presumed to be due to military service. This necessarily implies that no sooner a member of the force is discharged on medical ground his entitlement to claim disability pension will arise unless of course the employer is in a position to rebut the presumption that the disability which he suffered was neither attributable to nor aggravated by military service. From Rule 14(b) of the Entitlement Rules it is further clear that if the medical opinion were to hold that the disease suffered by the member of the armed forces could not have been detected prior to acceptance for service, the Medical Board must state the reasons for saying so. Last but not the least is the fact that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability at times even before they completed their tenure in the armed forces. **There may indeed be cases, where the disease was wholly unrelated to military service, but, in order that denial of disability pension can be justified on that ground, it must be affirmatively proved that the disease had nothing to do with such service. The burden to establish such a disconnect would lie heavily upon the employer for otherwise the rules raise a presumption that the deterioration in the health of the member of the service is on account of military service or aggravated by it. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that he was upon proper physical and other tests found fit to serve in the army should rise as indeed the rules do provide for a presumption that he was disease-free at the time of his entry into service. That presumption continues till it is proved by the employer that the disease was neither attributable to nor aggravated by military service. For the employer to say so, the least that is required is a statement of reasons supporting that view. That we feel is the true essence of the rules which ought to be kept in view all the time while dealing with cases of disability pension.***

*(emphasis supplied)*

9. The Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 1982 are applicable in the instant

case. Rule-5 of the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 1982 reads to the effect:-

***“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***

***(a) A member is 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.***

***(b) In the event of his subsequently being discharged from service on medical grounds any deterioration in his health which has taken place is due to service.”,***

That there is the presumption in favour of the personnel of the Armed Forces of they having been inducted in sound, physical and mental condition except as to physical disabilities noted or recorded at the time of entrance as per the terms of Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 1982, is well settled.

10. Rule-9 of the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 1982, provides to the effect:-

***“9. The claimant shall not be called upon to prove the conditions of entitlement. He/she will receive the benefit of any reasonable doubt. This benefit will be given more liberally to the claimants in field/afloat service cases.”,***

whereby it has been expressly laid down that the claimant shall not be called upon to prove the conditions of entitlement and is entitled to the benefit of any reasonable doubt

11. The observations of the Hon'ble High Court of Delhi vide the verdict in WP(C) 3545/2025 dated 27.03.2025 in ***UOI & Ors. vs Ex Sub Gawas Anil Madso*** vide Para-16.1 to 16.3 and read to the effect:-

***“16.1 The Supreme Court, in Dharamvir Singh, framed the following two questions as arising for consideration before it:***

***“2.1. Whether a member of Armed Forces can be presumed to have been in sound physical and mental condition upon entering service in absence of disabilities or disease noted***

or recorded at the time of entrance? 2.2. Whether the appellant is entitled for disability pension?"

16.2 The manner in which the Supreme Court has itself chosen to word the first issue arising before it for consideration is, to us, of considerable significance.

We may explain this as under:

(i) As worded, the first issue merely refers to the situation which obtained at the time of entrance of the officer into military service. It does not refer to anything that happened thereafter, or during the course of military service of the officer. It poses the query of whether, if there is no note recorded, at the time of entrance of the officer in military service, of his suffering from any disease or disability, the officer can be presumed to be in sound physical and mental condition. As such, the poser is with respect to the effect of the absence of any note, recorded at the time of entrance of the officer into military service, of his suffering from any ailment or disability. Would it mean that the officer is fit?

(ii) The corollary, however, is obvious, even if unwritten. If the first issue is answered in the affirmative; in other words, if the omission of any note, in the record of the officer at the time of his entering military service,

*would imply that the officer is in sound physical and mental health at the time, then it is obvious that if, at a later point of time during his military service, he is found to be suffering from some disease or disability, that disease or disability must have arisen during the course of his military service.*

*(iii) The only issue that would remain to be considered, then, would be whether the disease, or disability, is attributable to military service. This issue would, then, dovetail into the second issue framed by the Supreme Court, as, if the disease or disability is attributable to military service, the officer would, ipso facto, be entitled to disability pension.*

*16.3 It is also important to note that the issue of whether the concerned officer is invalided out of service, or discharged, or retires, is not a factor which has been included in the issue, as framed. The issue absolutely addresses the question of whether a disease or disability, from which the officer is found to be suffering during military service, and of which there is no note recorded at the time when he enters service."*

are categorical.

12. In the instant case, there is nothing in the medical records produced by the respondents to indicate that the

applicant was suffering from any disability before he entered military service nor is there any note recorded on his medical records to that effect and thus the disability that the applicant suffers from i.e. Psoriatic Arthropathy Z-79, Z-09.0 has to be presumed to having been caused and being aggravated by the physical stress of service by training, marching and prolonged standing.

### **CONCLUSION**

13. In the circumstances, in view of our analysis hereinabove, the applicant is thus held entitled to the grant of disability element of pension for the disability of Psoriatic Arthropathy Z-79, Z-09.0 assessed with a percentage of disablement @30% for life, which in the terms of the verdict of the Hon'ble Supreme Court in **UOI & Ors. vs Ramavtar** in Civil Appeal No. 418/2012 is directed to be broadbanded to 50% for life from the date of discharge. However, in the circumstances of the instant case, the arrears shall be confined to commence to run to be payable from a period of three years prior to the institution of the present OA i.e. 16.08.2019, in


terms of the verdict of the Hon'ble Supreme Court in **UOI & Ors**  
**Vs Tarsem Singh (2008) 8 SCC 648.**

14. 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 @8% per annum till the date of payment.

15. The OA 1321/2019 is disposed of accordingly.

Pronounced in the open Court on the 11 day of August, 2025.

  
**[REAR ADMIRAL DHIREN VIG]**  
**MEMBER (A)**

  
**[JUSTICE ANU MALHOTRA]**  
**MEMBER (J)**

/TS/