

**COURT NO. 1, ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**O.A. No. 1712 of 2020**

Hon Flying Offr NS Mathuria, Retd ..... Applicant  
Versus  
Union of India & Ors. .... Respondents  
For Applicant : Mr. Manoj Kr Gupta, Advocate  
For Respondents : Mr. Prabodh Kumar, Advocate

Order reserved on 28.02.2025  
Order pronounced on 04.04.2025

**CORAM:**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**  
**HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

**ORDER**

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

*(a) To direct the respondents to grant the disability pension @50% broad banded to 75% alongwith arrears by treating the disabilities as attributable and aggravated to Military service.*

*(b) To direct the respondents to pay the due arrears of disability pension with interest 10% p.a. with effect from the date of retirement with all the consequential benefits.*

*(c) To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."*

**BRIEF FACTS**

2. The applicant was enrolled in the Indian Air Force on 7.08.1982 and was discharged from service on

30.09.2019 under the clause "on attaining the age of superannuation" after rendering total 37 years and 45 days of regular service. The Release Medical Board dated 15.02.2019 held that the applicant was fit to be released from service in low medical category A4G4(P) for the disabilities of (i) Coronary Artery Disease (CAD) @ 30% (ii) Type II Diabetes Mellitus @ 20% and (iii) Primary Hypertension @ 30% for life compositely assessed @ 60% while the net assessment qualifying for Disability Pension(DP) was recorded as NIL for life on account of all the disabilities being treated as neither attributable to nor aggravated by military service.

3. On adjudication, AOC AFRO has also upheld the recommendations of RMB and rejected the disability pension claim vide letter No.RO/3305/3/Med dated 19.09.2019. The outcome of the same was also communicated to the applicant vide letter no Air HQ / 99798/ 1/ 627895/ 09/ 19/ DAV(DP/RMB) dated 18.10.2019 giving an option to prefer an appeal against the rejection of disability pension within six months from the date of receipt of the letter. The applicant made first

appeal dated 05.02.2020 which was also rejected by the respondents vide letter dated 19.11.2020 stating that the diseases are neither attributable to nor aggravated by military service and considered as life style diseases

4. Aggrieved by the response of the respondents, the applicant has filed the instant OA and in the interest of justice, we take up the same for consideration.

#### **CONTENTIONS OF THE PARTIES**

5. 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 disabilities as neither attributable to nor aggravated by military service as the onset of the diseases was in peace station.

6. The learned counsel further submitted 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.

7. The learned counsel for the applicant also placed reliance on the verdict of the Hon'ble Supreme Court 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.

8. The learned counsel for the applicant also placed reliance on the Orders passed by this Tribunal in OA No.285/2013 and batch, OA No.1828/2018 and OA No.1448/2021 wherein similarly situated persons were granted relief.

9. *Per contra*, the learned counsel for the respondents controverts the arguments put forth on behalf of the applicant and contended that the applicant is not entitled

to the relief claimed for, since the RMB, being an Expert Body, found the disabilities "Neither Attributable to Nor Aggravated by Military Service" for the reasons stated therein.

10. The learned counsel further submitted that the applicant's disabilities do not fulfil the necessary conditions for being eligible to get disability pension in terms of Regulation 153 of Pension Regulations for the IAF 1961, Part-I, thus the applicant is not entitled to disability pension and, therefore, the OA deserves to be dismissed.

### **ANALYSIS**

11. We have heard the learned counsel for the parties and have gone through the records produced before us.

12. In the present case, the disabilities Diabetes Mellitus (DM) Type-2, Primary Hypertension and Coronary Artery Disease (CAD) have been assessed by the RMB compositely @60% for life. Accordingly, the issue which is to be considered now is whether the disabilities suffered by the applicant are to be held attributable to nor aggravated by military service or not?

13. With regard to the attributability of a disability, the consistent stand taken by this Tribunal is based on the law laid down by the Hon'ble Supreme Court in the case of **Dharamvir Singh Vs. Union of India and others [(2013) 7 SCC 316]**, which has been followed in subsequent decisions of the Hon'ble Supreme Court and in the number of orders passed by this Tribunal, wherein the Apex Court had considered the question with regard to payment of DP and after taking note of the provisions of the Pension Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers, it was held by the Hon'ble Supreme Court that an Army personnel shall be 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 and in the event of his being discharged from service on medical grounds, any deterioration in his health, which may have taken place, shall be presumed to be due to service conditions. The Apex Court further held that the onus of proof shall be on the respondents to prove that the disease from which the incumbent is suffering is neither attributable to nor

aggravated by military service. The relevant para thereof is reproduced hereunder :

***"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."(Emphasis Supplied)*

14. The 'Entitlement Rules for Casualty Pensionary Awards, to the Armed Forces Personnel 2008, which take effect from 01.01.2008 provide vide Paras 6,7,10,11 thereof as under:

**"6. Causal connection:**

*For award of disability pension/special family pension, a causal connection between disability or death and military service has to be established by appropriate authorities.*

**Onus of proof:**

*Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.*

### 10. **Attributability:**

#### (a) **Injuries:**

*In respect of accidents or injuries, the following rules shall be observed:*

- i) Injuries sustained when the individual is 'on duty', as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).*
- ii) In cases of self-inflicted injuries while 'on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.*

#### (b) **Disease:**

*(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-*

- (a) that the disease has arisen during the period of military service, and*
- (b) that the disease has been caused by the conditions of employment in military service.*

*(ii) Disease due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contracted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical courses as determined by the competent medical authority.*

*(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture and current scientific medical application.*

*(iv) when the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.*

### 11. **Aggravation:**

*A disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic conditions, environmental factors related to service conditions e.g. Fields, Operations, High Altitude etc."*

Furthermore, Regulation 423 of the Regulations for the Medical Services of the Armed Forces 2010 which relates to 'Attributability to Service' provides as under:-

**"423. (a). For the purpose of determining whether the cause of a disability or death resulting from disease is or not attributable to Service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a Field Area/Active Service area or under normal peace conditions. It is however, essential to establish whether the disability or death bore a causal connection with the service conditions. All evidences both direct and circumstantial will be taken into account and benefit of reasonable doubt, if any, will be given to the individual. The evidence to be accepted as reasonable doubt for the purpose of these instructions should be of a degree of cogency, which though not reaching certainty, nevertheless carries a high degree of probability. In this connection, it will be remembered that proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. If the evidence is so strong against an individual as to leave only a remote possibility in his/her favor, which can be dismissed with the sentence "of course it is possible but not in the least probable" the case is proved beyond reasonable doubt. If on the other hand, the evidence be so evenly balanced as to render impracticable a determinate conclusion one way or the other, then the case would be one in which the benefit of the doubt could be given more liberally to the individual, in case occurring in Field Service/Active Service areas.**

**(b). Decision regarding attributability of a disability or death resulting from wound or injury will be taken by the authority next to the Commanding officer which in no case shall be lower than a Brigadier/Sub Area Commander or equivalent. In case of injuries which were self-inflicted or due to an individual's own serious negligence or misconduct, the Board will also comment how far the disablement resulted from self-infliction, negligence or misconduct.**

**(c). The cause of a disability or death resulting from a disease will be regarded as attributable to Service when it is established that the disease arose during Service and the conditions and circumstances of duty in the Armed Forces determined and contributed to the onset of the disease. Cases, in which it is established that Service conditions did not determine or contribute to the onset of the disease but influenced the subsequent course of the**

*disease, will be regarded as aggravated by the service. A disease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in Service if no note of it was made at the time of the individual's acceptance for Service in the Armed Forces. However, if medical opinion holds, for reasons to be stated that the disease could not have been detected on medical examination prior to acceptance for service, the disease will not be deemed to have arisen during service.*

*(d). The question, whether a disability or death resulting from disease is attributable to or aggravated by service or not, will be decided as regards its medical aspects by a Medical Board or by the medical officer who signs the Death Certificate. The Medical Board/Medical Officer will specify reasons for their/his opinion. The opinion of the Medical Board/Medical Officer, in so far as it relates to the actual causes of the disability or death and the circumstances in which it originated will be regarded as final. The question whether the cause and the attendant circumstances can be accepted as attributable to/aggravated by service for the purpose of pensionary benefits will, however, be decided by the pension sanctioning authority.*

*(e). To assist the medical officer who signs the Death certificate or the Medical Board in the case of an invalid, the CO unit will furnish a report on :*

*(i) AFMSF - 16 (Version - 2002) in all cases*

*(ii) IAFY - 2006 in all cases of injuries.*

*(f) In cases where award of disability pension or reassessment of disabilities is concerned, a Medical Board is always necessary and the certificate of a single medical officer will not be accepted except in case of stations where it is not possible or feasible to assemble a regular Medical Board for such purposes. The certificate of a single medical officer in the latter case will be furnished on a Medical Board form and countersigned by the Col (Med) Div/MG (Med) Area/Corps/Comd (Army) and equivalent in Navy and Air Force." (Emphasis supplied)*

has not been obliterated.

15. With regard to the disability CAD-CSA(N) LV Function SVD-S/P-PCI to LAD, in Para 47 of Chapter VI of the GMO (MP) 2008, prolonged stress and strain and physical hardship

caused by serving in field and high altitude areas have also been mentioned which cause the heart diseases to the army personnel. It would be relevant to reproduce Para 47 of the GMO (MP) 2008, which is 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.....”***

***[Emphasis supplied]***

16. As regards ‘Hypertension’, Para 43 of Chapter VI of the ‘Guide to Medical Officers (Military Pension), 2002 amended in 2008 (hereinafter referred to as ‘GMO (MP) 2008’), the

provisions for determining the aggravation of hypertension by the service conditions have been provided as under :

***“43. Hypertension – The first consideration should be to determine whether the hypertension is primary or secondary. If (e.g. Nephritis), and it is unnecessary to notify hypertension separately.***

***As in the case of atherosclerosis, entitlement of attributability is never appropriate, but where disablement for essential hypertension appears to have arisen or become worse in service, the question whether service compulsions have caused aggravation must be considered. However, in certain cases the disease has been reported after long and frequent spells of service in field/HAA/active operational area. Such cases can be explained by variable response exhibited by different individuals to stressful situations. Primary hypertension will be considered aggravated if it occurs while serving in Field areas, HAA, CIOPS areas or prolonged afloat service.”***

17. As per Para 26 of Chapter VI of ‘Guide to Medical Officers (Military Pensions), 2002, amendment 2008, Type II Diabetes Mellitus is to be conceded as aggravated if the onset occurs while serving in Field/CIOPS/HAA/ prolonged afloat service to armed forces personnel and having been diagnosed as ‘Type II Diabetes Mellitus’, who are required to serve in these areas. Furthermore, stress and strain because of service reasons are stated therein to be known factors which can precipitate diabetes or cause

uncontrolled diabetic state. Specific relevant portions of Para 26, Chapter VI of the GMO (MP), 2008, read as under:

***"26. Diabetes Mellitus***

***This is a metabolic disease characterised by hyperglycemia due to absolute/relative deficiency of insulin and associated with long term complications called microangiopathy (retinopathy, nephropathy and neuropathy) and macroangiopathy.***

***There are two types of Primary diabetes, Type 1 and Type 2. Type 1 diabetes .....Type 2 diabetes is not HLA-linked and autoimmune destruction does not play a role.***

***Secondary diabetes can be due to drugs or due to trauma to pancreas or brain surgery or otherwise. Rarely, it can be due to diseases of pituitary, thyroid and adrenal gland. Diabetes arises in close time relationship to service out of infection, trauma, and post surgery and post drug therapy be considered attributable.***

***Type 1 Diabetes ..... Type 2 diabetes is considered a life style disease. Stress and strain, improper diet non-compliance to therapeutic measures because of service reasons, sedentary life style are the known factors which can precipitate diabetes or cause uncontrolled diabetic state.***

***Type 2 Diabetes Mellitus will be conceded aggravated if onset occurs while serving in Field, CIOPS, HAA and prolonged afloat service and having been diagnosed as Type 2 diabetes mellitus who are required serve in these areas.***

***Diabetes secondary to chronic pancreatitis due to alcohol dependence and gestational diabetes should not be considered attributable to service."***

20. In the present case, it is not disputed that the applicant had been posted in field as well as peace stations in

his entire service tenure having different climatic, social and environmental conditions and he performed strenuous and stressful duties with prolonged working hours, lack of rest etc. It is seen that the onset of the diseases was in peace station after 36 years of long service. The accumulated stress and strain of such a long service cannot be ignored. This Tribunal has also observed in large number of cases that military services in peace stations have their own pressure of rigorous military training and associated stress and strain, physically and mentally, of the service and the contention that there is no evidence of stress and strain of service in peace station should not be considered for the purpose of granting disability pension. It may also be taken into consideration that the most of the personnel of the armed forces, during their service, work in the stressful and hostile environment, difficult weather conditions and under strict disciplinary norms. Moreover, there is no note made in the applicant's medical documents that he was suffering from any disease at the time of joining the service. There is no record to show that the applicant has suffered the disabilities due to hereditary or unhealthy lifestyle or there is any family

history therefor. We are, therefore, of the considered view that the benefit of doubt in these circumstances should be given to the applicant in view of above judgments and settled law and provisions on the point of attributability/aggravation and the disabilities suffered by the applicant should be held attributable to and aggravated by the military service.

21. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is held entitled for the disability element of pension.

22. As per letter no. 16036/RMB/IMB/DGAFMS/MA(pens) dated 14.12.2009 issued by the office of DGAFMS, MoD whereby the correct method of computing composite disabilities in case there are two or more disabilities due to service has been brought out. The relevant extract of the above letter is reproduced as under: -

*"2. As per the present laid down policy whenever there are two or more disabilities due to service, the compensation will be based on the composite assessment of the degree of disablement. When separate disabilities have entirely different functional effects, the composite assessment is taken as the arithmetical sum of their separate assessments. But where the functional effects of the disabilities overlap, the composite assessment will be reduced in proportion to the degree of overlapping.*

3. It has been observed by this office during perusal of RMB/MB proceedings conducted at various hospitals of the armed forces, that on several instances the members of the armed forces having two or more disabilities having similar assessment for individual disabilities have been given a composite assessment which have a wide variance between different Medical Boards thus defying fairness and uniformity. Particularly those cases pertaining to the former policy as mentioned in Para 2 above, where the separate disabilities having different functional effects and the composite assessment is taken as the arithmetic sum of their separate assessments it has been found that members have been over assessed by the medical boards which is not commensurate with the overall functional ability of the individual."

Therefore, the composite assessment of the percentage of disablement for the disabilities Primary Hypertension, CAD and Type-II Diabetes Mellitus is being recalculated as per the aforesaid letter dated 14.12.2009 which is as follows:

Disability	Assessment	Net Assessment
Primary Hypertension	30%	30%
CAD	30%	21%
Type-II Diabetes Mellitus	20%	10%
<b>Calculation:</b>		
Disability-1- Primary Hypertension:=30%		
Disability-2-CAD:(100-30)=70*30/100=21%		
Disability-3-Type-II Diabetes Mellitus: 100 - (30+21) = 49*20/100 = 9.8= 10%		
Composite Assessment = 30 + 21 + 10 = 61%		
The rounding off of the composite assessment of 61% will be 75%.		

**CONCLUSION**

23. In view of the above, OA 1712/2020 is allowed. The respondents are directed to grant the disability element of pension to the applicant @ 61% for life, which is directed to be rounded off to 75% for life, with effect from the date of discharge 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.

24. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within three months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

25. There is no order as to costs.

26. Pronounced in open Court on this 4 day of April, 2025.

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)

/vb/