

ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA 2429/2023

Col (Dr) Vikrant Srivastava (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Rajiv Manglik, Advocate  
For Respondents : Ms. Jyotsna Kaushik, Advocate

Order reserved on 24.09.2025

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT. GEN. SHASHANK SHEKHAR MISHRA, MEMBER (A)

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 the applicant has filed this OA and the prayer made in para 8 read as under:-

*“(a) To declare the action of the respondents as unjust, arbitrary and illegal; and*

*(b) To quash and set aside order dated 26 Jun 2023, 26 Sep 2022 and 14 Mar 2022 to the extent of denying the disability pension for diseases as Not Approved; and*

*(c) To direct the respondents to grant the disability pension for the composite disabilities of 66% as assessed by the Release medical Board and grant the benefit of rounding of disability of the applicant from 66% to 75% in terms of letter dated 31 Jan 2001; and*

*(d) To grant an interest of 18% on the arrears; and*

*(e) To award exemplary costs upon the respondents in the facts and circumstances of the record; and*

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

2. The applicant was commissioned as a Short Service Commissioned Officer as 2/Lt. in December, 1989 and was granted seniority w.e.f. December, 1987. He was promoted from time to time and at the relevant time when he invoked the jurisdiction of this Tribunal in the year 2023 he was holding the rank of Col. It is the case of the applicant that while in service, on account of various duties performed by him, he had contracted the ailment of Primary Hypertension (30%), Diabetes Mellitus (Type-II) (40%), PIVD L4L5 (20%), ID(iv) Diffuse Idiopathic Skeletal Hyperostosis (20%) and Primary Hypothyroidism (5%).

3. As far as Primary Hypertension and Primary Hypothyroidism is concerned, it was said to be neither aggravated nor attributable to Military service. However, the ailments of Diabetes Mellitus, PIVD and Diffuse Idiopathic Skeletal Hyperostosis were said to be aggravated by military service and the disability was assessed as 40%, 20% and 20% respectively. Learned counsel for the applicant argued that as the ailments of Diabetes Mellitus, PIVD and Diffuse Idiopathic Skeletal Hyperostosis were aggravated by military service, he is only claiming disability for the same to be rounded off in accordance with applicable terms and formula.

4. Respondents have filed a detailed counter affidavit and have submitted that the claim has been adjudicated strictly in accordance with the Entitlement Rules for Casualty Pensionary Awards, 2020, which mandate that only such disabilities as are clearly attributable to, or aggravated by, military service can be conceded for pensionary benefits.

5. It is further submitted that both the initial adjudicating authority and the appellate authorities, after thorough evaluation of medical and service records, have consistently held that the aforesaid ailments are constitutional in nature and not influenced by military service conditions. Reference is invited to Para 43, Chapter VI of the Guide to Medical Officers (GMO), 2002, which provides that conditions arising from familial, lifestyle, or environmental factors, and not directly linked to service exigencies, cannot be categorized as attributable to or aggravated by service.

6. The respondents emphasize that the medical board duly recognized the existence of the applicant's medical conditions but found no nexus between these diseases and military service. The assessment revealed that the onset and progression of these conditions were the outcome of non-service factors such as obesity, smoking, and personal health management. Accordingly, the

medical opinion, being expert in nature, has been rightly accepted by the competent authority. The applicant has failed to produce any substantive material to rebut or displace these medical findings.

7. Having heard learned counsel for the parties at length, we find that the respondents have merely held that the ailments were neither attributable to nor aggravated by military service and therefore, they have rejected it. Rejection of disability is by the administrative authorities whereas in the proceedings of the medical board, available on record, it is clearly mentioned that the disability of Type II Diabetes Mellitus and PIVD and Diffuse Idiopathic Skeletal Hyperostosis were aggravated by military service and vide order passed on 14.03.2022 i.e. the impugned order the competent authority accorded approval for grant of disability element of 36% broad banded to 50% for life for ailment of PIVD and Diffuse Idiopathic Skeletal Hyperostosis, both being aggravated and attributable to military service.

8. Reliance is placed on the judgments rendered by the Hon'ble Supreme Court in the case of *Dharamvir Singh Vs. Union of India and Ors.*, Civil Appeal No.4949/2013 decided on 02.07.2013 to claim the aforesaid benefit.

9. It is a well-established principle, repeatedly affirmed by this Tribunal and the High Court, that once a medical board has assessed a disability and opined that it is attributable to or aggravated by military service, the executive authorities lack the jurisdiction to reject the claim on the administrative ground that the disability is neither attributable to nor aggravated by military service.

10. This position is reinforced by the judgment of the Hon'ble the Supreme Court in the case of *Ex. Sapper Mohinder Singh Vs. Union of India*, in Civil Appeal No. 164 of 1993, decided on 14.01.1993, where the following crucial observation was made:

"From the above narrated facts and the stand taken by the parties before us, the controversy that falls for determination by us is in a very narrow compass viz., whether the **Chief Controller of Defence Accounts (Pension)** has any jurisdiction to sit over the opinion of the experts (Medical Board) while dealing with the case of grant of disability pension, in regard to the percentage of the disability pension, or not. In the present case, it is nowhere stated that the petitioner was subjected to any higher Medical Board before the Chief Controller of Defence Accounts (Pension) decided to decline the disability pension to the petitioner. **We are unable to see as to how the accounts branch dealing with the pension can sit over the judgment of the experts in the medical line without making any reference to a detailed or higher Medical Board** which can be constituted under the relevant instructions and rules by the Director General of Army Medical Core."(Emphasis supplied)

11. Even though respondents have denied the claim made by the applicant, we find that the facts as have come on record are

apparently clear. From the medical record, it is seen that the disability of Diabetes Mellitus, PIVD and Diffuse Idiopathic Skeletal Hyperostosis have been held to be aggravated by military service with assessment as 40%, 20%, and 20% for life for each of these ailments. Learned counsel for the applicant submitted that atleast for these three ailments, the applicant is entitled to the claim for disability and disability pension and he does not press the claim for any other disability.

12. Having heard learned counsel for the parties and on perusal of the records and the legal principles laid down in the case of *Dharamvir Singh* (supra) and *Ex. Sapper Mohinder Singh* (supra), we are of the considered view that for the disability of Diabetes Mellitus, PIVD and Diffuse Idiopathic Skeletal Hyperostosis, the applicant is entitled to the disability pension. The disability has been assessed by the medical board @ 40%, 20%, 20% for each of the disability for life and the composite disability percentage is calculated for these ailments will be worked out to 61.6%

13. Accordingly, based on the aforesaid , the disability percentage comes to 61.6% which is to be rounded off to 75% in accordance with the judgement of Hon'ble Supreme Court in *Union of India Vs. Ram Avtar* (Civil Appeal No.418/2012). However, the amount of

arrears is directed to commence from a period of three years prior to the institution of the present OA i.e. 21.08.2023 in terms of the verdict of the Hon'ble Supreme Court in *Union of India and others Vs. Tarsem Singh* (2009(1) AISLJ 371).

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

15. No order as to costs.

16. Pronounced in the open Court on this <sup>14</sup>18 day of November, 2025.

[Justice Rajendra Menon]  
Chairperson

(Lt Gen. Shashank Shekhar Mishra)  
Member (A)

/vb/

COURT NO. 1  
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A.

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CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE Lt GEN SHASHANK SHEKHAR MISHRA, MEMBER (A)

ORDER  
18.11.2025

This case was heard by a Bench consisting of the Hon'ble Chairperson and Lt. Gen. Shashank Sekhar Mishra and was reserved for judgment. Thereafter, the judgment was dictated and seen by Lt. Gen. Shashank Sekhar Mishra. In view of the provisions of Rule 98(1)(ii) of the AFT (Practice) Rules, 2009, and on the basis of the authority given by Lt. Gen. Shashank Sekhar Mishra, the judgment is being pronounced today by the Chairperson.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[LT GEN SHASHANK SHEKHAR MISHRA]  
MEMBER (A)

/PS/