

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

120.

OA 3480/2024 with MA 3807/2025

Col M Yaseen (Retd) Applicant
Versus Respondents
Union of India & Ors.

For Applicant : Mr. S S Pandey, Advocate
For Respondents : Mr. Sudhir Kumar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT. GEN. C. P. MOHANTY, MEMBER (A)

O R D E R
12.12.2025

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant filed this OA praying to direct the respondents to accept the disabilities of the applicant as attributable to/aggravated by military service and grant disability pension with benefit of broad-banding with effect from the date of retirement along with all consequential benefits.

2. The applicant was commissioned in Indian Army on 24.08.1991 and retired on 31.07.2022. after serving 31 years. The Release Medical Board held that the applicant was fit to be discharged from service in composite low medical category SHAPE-2Z for the disabilities- (a) Primary Hypertension @ 30%, (b) Dyslipdemia @ 5%, (c) Diabetes Mellitus Type-2 @ 20% and while the qualifying element for disability pension was recorded as NIL for life on account of disabilities being treated as neither

attributable to nor aggravated by military service (NANA).

3. The claim of the applicant for grant of disability pension was rejected by IHQ of MOD (Army), Adjutant General's Branch, Addl Dte Gen MP(P&P), ORO/MP-7/Adjudication Cell, West Block- III, RK Puram New Delhi and the applicant's First Appeal was rejected by ADG of PS/AG's Branch/PS-4 (Ist Appeal), IHQ of MOD (Army), 5th Floor, A-Block Room No-527, Defence Office Complex, KG Marg, New Delhi and Second Appeal was also rejected by the respondents (PS Directorate, PS-9, A Block, Room No-536, Fifth Floor, Defence Office Complex, KG Marg, Adjutant General's Branch, IHQ of MoD (Army), New Delhi-110001, stating that the aforesaid disabilities were considered as neither attributable to nor aggravated by military service. Aggrieved by the aforesaid rejection, the applicant has approached this Tribunal.

4. Placing reliance on the judgement of the Hon'ble Supreme Court in *Dharamvir Singh v. UOI & Ors [2013 (7) SCC 36]*, Learned Counsel for applicant argues that no note of any disability was recorded in the service documents of the applicant at the time of the entry into the service, and that he served in the Indian Navy at various places in different environmental and service conditions in his prolonged service, thereby, any disability at the time of his service is deemed to be attributable to or aggravated by military service.

5. Fer Contra, Learned Counsel for the Respondents submits that under the provisions of the Pension Regulations the

primary condition for the grant of disability pension is invalidation out of service on account of a disability which is attributable to or aggravated by Indian Army service and is assessed @ 20% or more.

6. With regard to the issue of admissibility of disability pension when the disability was assessed at less than 20%, the Hon'ble Supreme Court in its judgment in the case of Union of India & Ors. Vs. Wing Commander S.P. Rathore [Civil Appeal No.10870/2018] decided on 11.12.2019, has held that disability element is not admissible if the disability is less than 20%, and that 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. 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%.

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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.

10. *The Armed Forces Tribunal ("AFT"), in our opinion, put the cart before the horse. It applied the principles of rounding off without determining whether the petitioner/ applicant before it would be entitled to disability pension at all.*

11. *In view of the provisions referred to above, we are clearly of the view that the original petitioner/applicant before the AFT is not entitled to disability pension. Therefore, the question of applying the provisions of Para 7.2 would not arise in his case. In this view of the matter, we set aside the order of the AFT and consequently, the original application filed by the Respondent before the AFT shall stand dismissed.*

The appeal is allowed accordingly.”

7. The Hon'ble Supreme Court in its judgment in the case of Bachchan Prasad Vs. Union of India & Ors. [Civil Appeal No.2259 of 2012] dated 04.09.2019 also held that an individual is not entitled to disability element if the disability is less than 20% as under :

“After examining the material on record and appreciating the submissions made on behalf of the parties, we are unable to agree with the submissions made by the learned Additional Solicitor General that the disability of the appellant is not attributable to Air Force Service. The appellant worked in the Air Force for a period of 30 years. He was working as a flight Engineer and was travelling on non pressurized aircrafts. Therefore, it cannot be said that his health problem is not attributable to Air Force service. However, we cannot find fault with the opinion of the Medical Board that the disability is less than 20%. The appellant is not entitled for disability element, as his disability is less than 20%.”

8. Relying on the aforesaid provision, Learned Counsel for respondents further submits that the aforesaid disabilities of the applicant were assessed as “neither attributable to nor aggravated” by Indian Army service and not connected with the Indian Army service and as such, his claim was rejected; thus, the

applicant is not entitled for grant of disability pension due to policy constraints.

9. On the careful perusal of the materials available on record and also the submissions made on behalf of the parties, we are of the opinion that it is not in dispute that the extent of disability was assessed to be above 20% which is the bare minimum for grant of disability pension in terms of the Pension Regulations for the Indian Navy. The only question that arises in the above backdrop is whether disability suffered by the applicant was attributable to or aggravated by Air Force service.

10. The issue of attributability of disease is no longer res *integra* in view of the verdict of the Hon'ble Apex Court in *Dharamvir Singh v. Union of India (supra)*, wherein it is clearly spelt out that any disease contracted during service is presumed to be attributable to military service, if there is no record of any ailment at the time of commission into the Military Service.

11. Furthermore, the issue regarding the attributability of Diabetes Mellitus has been settled by the *Hon'ble Supreme Court in Commander Rakesh Pande v. Union of India (Civil Appeal No. 5970 of 2019)* wherein the Apex Court has not only held that the Diabetes Mellitus is a disease which is of permanent nature and will entitle the applicant to disability pension, but also observed that in case where the disability is of permanent nature, the disability assessed by the Medical Board shall be treated for life and cannot be restricted for specific period.

12. Regarding broadbanding benefits, we find that the *Hon'ble Supreme Court in its order dated 10.12.2014 in Union of India v. Ram Avtar (Civil Appeal No. 418 of 2012)* and connected cases, has observed that individuals similarly placed as the applicant are entitled to rounding off the disability element of pension. We also find that the Government of India vide its Letter No. F.No.3(11)2010-D (Pen/Legal) Pt V, Ministry of Defence dated 18th April 2016 has issued instructions for implementation of the Hon'ble Supreme Court order dated 10.12.2014 (supra).

13. Applying the above parameters to the case at hand, we are of the view that the applicant has been discharged from service in low medical category on account of medical disease/disability, the disability must be presumed to have arisen in the course of service which must, in the absence of any reason recorded by the Medical Board, be presumed to have been attributable to or aggravated by air force service.

14. As the disability Dyslipidaemia has been assessed @ 5%, the claim in this regard is rejected.

15. Therefore, in view of our analysis, the OA is allowed and Respondents are directed to *grant benefit of disability element of pension @ less than 50% for life rounded off to 50% in view of judgement of Hon'ble Apex Court in Union of India versus Ram Avtar (supra)* from the date of retirement i.e. 31.07.2022. The arrears shall be disbursed to the applicant within four months of receipt of this order failing which it shall earn interest @ 6% p.a. till the actual date of payment.

16. Consequently, the O.A. is allowed.
17. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT. GEN. C. P. MOHANTY]
MEMBER (A)

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