

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 1728/2021 WITH MA 1684/2021

EX WO Awadhesh Kumar Chauhan **Applicant**

VERSUS

Union of India and Ors. **Respondents**

For Applicant : Mr. Praveen Kumar, Advocate

For Respondents : Mr. Shyam Narayan, Advocate

CORAM

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

HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

MA 1684/2020

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in *Union of India and others Vs. Tarsem Singh*[(2008) 8 SCC 648], the MA is allowed condoning the delay of 3640 days in filing the OA. The MA stands disposed of.

OA 1728/2021

2. 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) Quash and set aside the impugned letters dated 17 Dec 2009.

(b) Direct respondents to grant disability pension @51% and rounding off the same to 75% for life to the applicant with effect from 01 Aug 2010 i.e. the date of discharge from service with interest @12% p.a. till final payment is made.

(c) Any other relief which the Hon’ble Tribunal may deem fit and proper in the fact and circumstances of the case.”

BRIEF FACTS

3. The applicant was enrolled in Indian Air Force on 20.05.1972 and was discharged from service on 31.07.2010 under the clause on “Attaining the age of superannuation” after rendering 38 years and 73 days of regular service. The applicant was initially placed in Low Medical Category (LMC) CEE (T-24) for ID: Bilateral Cataract with Cataract RE optd vide AFMSF-15 dt. 14 May 2003. In subsequent review, he was upgraded to A4G1 for ID: Bilateral Cataract with Cataract (Rt) eye optd and ID: Bilateral Cataract with Cataract (Lt) eye optd vide AFMSF-7A dt. 04 August 2007. He was also detected to have Mild Aortic Regurgitation and ECG Abnormality (LAHB) and placed in composite low medical category A4G2 (P) for both disabilities vide AFMSF-15 dt. 17 March 2009.

4. The Release Medical Board not solely on medical grounds held on 29.10.2009 found that the applicant was in low medical

category A4G2(P) for the disabilities **(1) Mild Aortic Regurgitation @ 30% for life (2) LAHB @ 30% for life** while the net qualifying element for both the disabilities was recorded as 'NIL' for life on account of disabilities being treated as neither attributable to nor aggravated by service.

5. On adjudication, AOC AFRO also upheld the recommendations of RMB and rejected the disability pension claim vide letter No. RO/3305/3A Med Cat(D) dated 16 Dec 2009. The decision was communicated to the applicant vide letter No. RO/2703/612888/07/10/ P&W (DP/RMB) dated 17 Dec 2009, advising him to prefer an appeal before the Appellate Committee within six months from the date of receipt of the said letter.

6. The first appeal filed by the applicant on 06.01.2021 was rejected as time barred and the same was communicated to the applicant vide letter No. AirHQ/99798/5/Misc/612888/TBS/DP/AV-III dt. 19 Jan 2021. Aggrieved by the same, the applicant has filed the present OA for grant of Disability Pension alongwith the benefit of broadbanding.

CONTENTIONS OF THE PARTIES

7. The learned counsel for the applicant submitted that the applicant had joined the Indian Air Force in a fit medical category as per the medical standards required for recruitment in the Armed Force at the time of enrolment and that his trade was of a Clerk (General Duties). The applicant further submitted that he underwent a thorough medical examination conducted by Recruiting Medical Officers and when found fit by the Recruiting Medical Officers at the Recruitment/Selection Centre in all aspects, he was enrolled in the Indian Air Force. After successfully undergoing training, he was posted to different units of peace as well as field areas, in the course of active service/duties.

8. The learned counsel for the applicant further submitted that, in addition to the conditions of service, the applicant had to work on his trade duties and was made responsible to carry out the duties assigned to him, including hard areas staying alone, away from social and family life and he hardly got any time to properly take rest and relaxation, and he alone handled and carried out these very strenuous and stressful duties. He was detailed to work on his trade duties which require extra physical and mental stress

at different locations which was a main cause of stress and strain on the applicant.

9. The learned counsel for the applicant further submitted that both the disabilities of the applicant i.e (1) Mild Aortic Regurgitation @ 30% for life and (2) LAHB (Left Anterior Hemiblock) @ 30% for life, detected in September, 2008 at Gurgaon (Peace Station) was due to stress and strain of working and he was under treatment at AFCME and Base Hospital and still on various medicines for these disabilities. He further submitted that the RMB in its report has not done the composite assessment of the disabilities, however, as per GOI letter the disabilities of the applicant should have been assessed more than 50% composite for life.

10. It is contended further by the applicant that provisions governing the disability pensions are beneficial provisions and shall be liberally construed in the welfare of the personnel/applicant. Reliance in this regard is placed on catena of verdicts of the Hon'ble Supreme Court in **Deokinandan Prasad Vs. State of Bihar AIR** 1971 SC page 1409, **Dharamvir Singh Vs Union of India & Others** (2013) 7 SCC 316, and in the case of

Union of India and others Vs. Rajbir Singh (2015) 12 SCC 264,
Union of India Vs Ram Avtar (Civil Appeal No. 418/2012),
decided on 10.12.2014 and catena of other orders of the Armed
Forces Tribunal.

11. *Per contra*, the learned counsel for the respondents submitted that the applicant was initially diagnosed and placed in low medical category A4G3 (T-12) vide AFMSF-15 dated 11 December 2008, while posted at 54 ASP AF and he was reviewed regularly for the disability. Subsequently, the applicant was placed in low medical category A4G2(P) for both the disabilities vide AFMSF-15 dated 17.03.2009.

12. The learned counsel for the respondents submitted that both the disabilities i.e. (1) Mild Aortic Regurgitation and LAHB (Left Anterior Hemiblock) are constitutional in nature and not connected with military service hence, both the disabilities are “Neither Attributable to Nor Aggravated by Military Service”.

13. Learned counsel for the respondents contended that the applicant is not entitled to the relief claimed since the RMB, being an expert body, after a thorough examination of the applicant, found the disability as “Neither Attributable to Nor Aggravated by

Military Service” on the ground that the said disability of the applicant is not connected with military service. Thus in terms of Regulation 153 of Pension Regulations for the Indian Air Force 1961, Part-1, the applicant is not entitled to disability pension and, therefore, the OA deserves to be dismissed.

ANALYSIS

14. We have heard learned counsel on both sides. We have also gone through the Release Medical Board proceedings as well as the records.

15. It is not in dispute that the extent of both the disabilities has been assessed @ 30% for life, which is more than the bare minimum for the grant of the disability element of pension in terms of Regulation 153 of the Pension Regulations for the Indian Air Force, 1961 (Part-I). Accordingly, the issue which is to be considered now is *whether the disabilities suffered by the applicant are to be held attributable to and aggravated by military service or not?*

16. After going through the opinion of the medical Board in Part-V of the RMB proceedings, we have noted that the only reason for

declaring both the disabilities as 'NANA' is that the disabilities are constitutional in nature and are not connected with service.

17. The issue of attributability of disease is no longer res integra consequent to the Hon'ble Apex Court Order in Dharamvir Singh v. Union of India [(2013) 7 SCC 316] (Supra), wherein it is clearly spelt out that any disease contracted during service is presumed to be attributable to military service.

18. Regulation 423(a) 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. has not been obliterated. (emphasis supplied),

19. Para 47 of the GMO (Military Pensions) 2008, that is relevant for heart ailments is as under:-

"47. Ischemic 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.

Entitlement in Ischemic heart disease will be decided as follows:-

(a) Attributability will be conceded where: A myocardial infarction arises during service in close time relationship to a service compulsion involving severe trauma or exceptional mental, emotional or physical strain, provided that the interval between the incident and the development of symptoms is approximately 24 to 48 hours. 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. Attributability will also be conceded when the underlying disease is either embolus or thrombus arising out of trauma in case of boxers and surgery, infectious diseases. E.g. Infective endocarditis, exposure to HAA, extreme heat.

(b) Aggravation will be conceded in cases in which there is evidence of:-

IHD occurring in a setting of hypertension, diabetes and vasculitis, entitlement can be judged on its own merits and only aggravation will be conceded in these cases. Also aggravation may be conceded in persons having been diagnosed as IHD are required to perform duties in high altitude areas, field areas, counter insurgency areas, ships and submarines due to service compulsions.

There would be cases where neither immediate nor prolonged exceptional stress and strain of service is evident. In such cases the disease may be assumed to be the result of biological factors, heredity and way of life such as indulging in risk factors e.g. smoking. Neither attributability nor aggravation can be conceded in such cases."

20. It is specifically stipulated therein that it is 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 exceptions to the aggravation

is where the disease is due to the result of biological factors, heredity and way of life such as indulging in risk factors e.g. smoking in which case neither attributability nor aggravation in terms of Para 47 of the GMO 2008 is admissible.

21. In the present case, the applicant had not suffered with any trauma/infection etc. however, it may be taken into consideration that 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. It is essential to further observe that on going through the medical records available, it appeared that the applicant has been suffering with hypertension. In the RMB dt. 29.10.2009, the BP recorded was 140/86. There is no mention of any family history or abnormality of heart and also there is nothing on the records to show that the applicant was a smoker or a drinker at the time of induction into service and that the disabilities occurred due to hereditary or unhealthy lifestyle of the applicant. The fact that no abnormality of the heart was detected during the strenuous checks conducted at the time of

joining or in the annual medical checkups conducted thereafter till September 2008, i.e., after about thirty six years of service and were not existed before or at the time of entering into the service shows that the occurrence of a heart abnormality thereafter could only have occurred due to the stresses and strains undergone during the military service. In view of this, it is apparent that the disability of the applicant has causal connection with the military service. We are therefore, of the considered opinion that the reasons given in RMB for declaring both the diseases as 'NANA; are very brief and cryptic in nature and do not adequately explain the denial of attributability.

22. Reliance placed by the applicant on the order of AFT (PB) dt. 20.03.2020 in the matter of **Sqn Ldr. Shilpa Rao vs UOI & Ors.** OA 2070/2018 whereby the petitioner was granted disability pension for 'Mitral Valve Prolapse with Mild Regurgitation'. This disability was subject matter in TA NO. 1218 of 2010, Gurmail Singh vs. Union of India & Ors. arising out of CS No. 728/2004 which was allowed by this Tribunal. Similarly with regard to the disability ECG Abnormality (LAHB) is concerned, the AFT (PB)

allowed the petition vide order dt. 28.07.2023 while holding the said disability to be attributable and aggravated by military service in the case of Ex MWO (HFL) **Amrit Lal Sekhri v. Union of India & Ors.** OA No.700/2019. In the instant case the applicant is suffering from disabilities **Mild Aortic Regurgitation** and **LAHB**. Hence, in view of the aforestated dictum, we are inclined to give benefit of doubt to the applicant and are of the view that both the disabilities are to be considered as aggravated by military service.

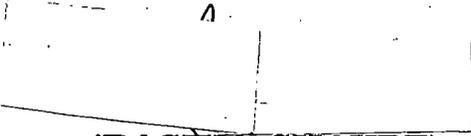
23. Applying the above parameters to the case at hand, we are of the considered view that the applicant has been discharged from service in low medical category on account of medical disease/disability, the disabilities must be presumed to have arisen in the course of service which must, in the absence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

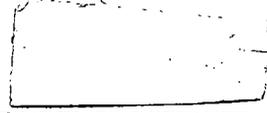
24. In view of the aforesaid judicial pronouncement and the parameters referred to above, the applicant is entitled for disability element of pension for life in respect of both the disabilities i.e. (1) Mild Aortic Regurgitation and (2) LABH (Left

Anterior Hemiblock). Accordingly, we allow this application setting aside the impugned letter Air RO/2703/612888/0710/P&W(DP)/RMB/707760/DAV(DP/RMB) dt. 17.12.2019 holding that the applicant is entitled to disability element of pension. Since, the Release Medical Board (RMB) has not done the composite assessment of the disabilities, the respondents are directed to calculate the composite assessment of both the disabilities of the applicant and thereafter the benefit of rounding off will be applied on the composite assessment to be determined by the respondents within a period of four weeks from the date of receipt of this order, in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of **Union of India Vs. Ram Avtar** (*supra*).

25. Pending application if any, also stands disposed of.

26. Pronounced in open court on this ^{17th} day of March, 2026.


(RASIKA CHAUBE)
MEMBER (A)


(JUSTICE NANDITA DUBEY)
MEMBER (J)

kt/

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

E.

OA 1728/2021 WITH MA 1684/2021

Ex WO Awadhesh Kumar Chauhan Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Praveen Kumar, Advocate
For Respondents : Mr. Shyam Narayan, Advocate

CORAM

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

**ORDER
17.03.2026**

Judgment in this matter has been pronounced today vide a separate signed order. At the time of hearing, certain original documents were kept by us for perusal. Since the judgment in the matter has now been pronounced, these documents be returned to the respondents after taking due acknowledgement.


**(JUSTICE NANDITA DUBEY)
MEMBER (J)**


**(RASIKA CHAUBE)
MEMBER (A)**

RB