

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

**OA 1183/2019**

**Ex Hav Ajit Singh Yadav**

**.....Applicant**

**VERSUS**

**Union of India and Ors.**

**.....Respondents**

**For Applicant : Mr. Rajiv Manglik, Advocate**

**For Respondents : Mr. K.K. Tyagi, Sr CGSC**

**CORAM**

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

**HON'BLE MS. RASIKA CHAUBE, 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) Quash the orders/letters dated 08.09.2012, 11.08.2014 and 20.11.2017 whereby the respondents have repeatedly rejected the Applicant's request for grant of disability pension to him;*

*(b) Direct the Respondents to release the disability pension to the Applicant with effect from the date of his release with arrears.*

*(c) Pass any such orders that the Tribunal may deem fit in the light of above mentioned facts and circumstances of the case.”*

## BRIEF FACTS

2. The factual matrix of the case is that the applicant was enrolled in the Indian Army on 25.02.1995 and was invalided out of service on 21.07.2012 under Army Rule 13(3) III after rendering a total of 17 years and 02 months of regular service. The applicant was on 20 days' casual leave w.e.f. 29.06.2011 to 18.07.2011, during which he experienced an acute onset of headache, vomiting, and instability of gait. He was admitted to R&R Hospital, Delhi Cantt, where he was diagnosed with **"POST CIRCULATION STROKE (BASILAR ARTERY THROMBOSIS)"** and invalided out by the competent medical board *vide* AFMSF-16 dated 28.05.2012. The applicant has been granted service pension with effect from 22.07.2012 *vide* PPO No. S/018263/2013 dated 04.04.2013, as stated by the respondents in their counter affidavit.

3. The Invalidment Medical Board ('IMB') dated 28.05.2012, held that the applicant was fit to be released from service in low medical category S1H1A1P5E1 (Permanent) for ID- **"POST CIRCULATION STROKE (BASILAR ARTERY THROMBOSIS)"**, assessed @ 70% for life, however, the net qualifying element for disability was recorded as 'NIL' for life on the ground that his disability was treated as 'neither attributable to nor aggravated by military service'.

4. The IMB considered the disability of the applicant as neither attributable to nor aggravated by military service for the following reason:-

*“Disability of sudden onset and occurred during leave period”*

5. The applicant's claim for the grant of disability pension was rejected by the Competent Authority, and the same was intimated to the applicant *vide* letter No. 4565794/DP dated 08.09.2012 with an advice that he may prefer an appeal to the Appellate committee within 6 months from the date of receipt of letter. The applicant preferred a first appeal dated 17.02.2014 against the rejection of his claim for disability pension which was adjudicated and rejected by the Appellate Committee *vide* its letter No. B/40502/980/2013/Appeal/AG/PS-4 (Imp-II) dated 25.07.2014 stating that the *“onset of ID was while serving in peace station. There is no close time association of ID with service in field/HAA/CI ops Area. He was on leave at the time of onset, hence there was no exceptional stress/strain of service precipitating the ID. In view of the above, ID is considered as neither attributable to not aggravated by service in terms of Para 14, Chap VI, GMO 2002 amendment 2008”*.

6. The applicant thereafter preferred a second appeal dated 21.08.2019 against the rejection of the first appeal which was also rejected by the respondents *vide* their letter B/38046A/221/2014/AG/PS-4 dated 02.11.2017 reiterating that the invaliding disease of the applicant was considered as NANA by the military and hence the applicant is not entitled to disability pension.

7. Aggrieved by the decision of the respondents, the applicant has filed the instant OA. In the interest of justice, in accordance with Section 21(1) of the AFT Act, we take up the present OA.

#### CONTENTIONS OF THE PARTIES

8. The learned counsel for the applicant submitted that the applicant was enrolled in military service after a thorough medical examination, and there was no note of any disability recorded in his service records, and that the applicant contracted the invaliding disease "POST CIRCULATION STROKE (BASILAR ARTERY THROMBOSIS)" during his service, hence it must be held attributable to service. Further, learned counsel for the applicant submitted that as per the conjoint reading of Rule 173 of the Pension Regulations for the Army, 1961 read with Rule 4, 5 and 9 of the Entitlement Rules for Causality Pensionary Awards, 1982, a member is presumed to have been in sound physical and mental condition upon entering service except for physical disabilities noted or recorded at the time of entrance. In the event of his being discharged from service on medical grounds at any subsequent stage, it must be presumed that the disease which has led to discharge or death shall be deemed to have arisen in service. If no note of any disability or disease was made at the time of the individual's acceptance for military service, a disease which has led to an individual's discharge or death shall be deemed to have arisen in service.

9. Learned counsel further submitted that the disability of the applicant is assessed at 70% for life. He is not able to perform even basic functions without the aid of a caretaker, and there is no prospect of improvement. He would require the assistance of a caretaker throughout his entire life, which has also been acknowledged by the IMB. Therefore, the applicant prays for the grant of disability pension. Further, placing reliance on various judgments, it is the case of the applicant that even while on casual leave, a man in uniform is considered to be "on duty," and any injury or disability occurring during such leave entitles him to the grant of disability pension.

10. *Per contra*, learned counsel for the respondents took us through the IMB proceedings and submitted that the applicant had been denied disability pension on the ground that the disability was considered as neither attributable to nor aggravated by military service. The counsel submitted that the IMB comprises three medical officers and is subsequently approved by higher medical authorities. Hence, no injustice has been done to the applicant. In this regard, learned counsel has relied upon the Hon'ble Supreme Court judgment in *Secretary, Ministry of Defence and Others v. A.V.Damodaran (Dead) Through LRs. And Others*, [(2009) 9 SCC 140]. Since the rejection is justified and in accordance with the policy in vogue, the counsel prayed that the OA be dismissed.

## ANALYSIS

11. We have heard the learned counsel for the parties and have perused the record, including the proceedings of the Invalidment Medical Board (IMB) placed before us. Insofar as the disability of “POST CIRCULATION STROKE (BASILAR ARTERY THROMBOSIS)” is concerned, the same has been assessed at 70% for life by the IMB, which is above the minimum threshold prescribed for the grant of the disability element of pension. Accordingly, the issue which is to be considered now is *whether the disability suffered by the applicant is to be held attributable to and aggravated by military service or not?*

12. On a careful perusal of the medical documents, it emerges that the disability occurred while the applicant was on casual leave. In response to a specific query as to whether he had suffered the injury while on leave, the applicant himself answered in the affirmative. It is, therefore, not in dispute that the applicant suffered the said disability on 08.07.2011 during a period of 20 days’ casual leave and was subsequently invalidated out of service by the competent Medical Board vide AFMSF-16 dated 28.05.2012.

13. Having heard the learned counsel for the parties at length, we are of the considered view that the issue regarding entitlement to disability pension in cases where the injury is sustained while on leave is no longer *res integra*, having been authoritatively settled by the Hon’ble Supreme Court in Civil Appeal No. 4981 of 2012, Secretary, Government of India & Ors. v. Dharambir Singh, decided on 20.09.2019. In the said case, the principal question that arose for

consideration was whether an armed forces personnel proceeding on casual leave, annual leave, or leave of any other kind is to be treated as being on duty, and consequently, whether an injury sustained or death occurring during such period would entitle him to disability pension or compensation. The Hon'ble Supreme Court, *inter alia*, formulated the following issue for determination in paragraph 10 of the judgment:

*“(i) Whether, when armed forces personnel proceeds on casual leave, annual leave or leave of any other kind, he is to be treated on duty?”*

*“(ii) Whether the injury or death caused even if, the armed forces personnel is on duty, has to have some causal connection with military service so as to hold that such injury or death is either attributable to or aggravated by military service?”*

*“(iii) What is the effect and purpose of COI into an injury suffered by armed forces personnel?”*

14. Thereafter, upon considering in detail the relevant Medical Regulations, the Entitlement Rules governing the grant of disability pension, and a large number of decisions rendered not only by the Hon'ble Supreme Court but also by various High Courts and the Armed Forces Tribunal, the issues and questions so framed were answered, and the guiding principles for adjudicating such matters were laid down in paragraph 36 of the judgment in the following terms:

*“36. We find that summing up of the following guiding facts by the Tribunal in Jagtar Singh v. Union of India & Ors. (T.A. No. 61/2010 decided on November, 2, 2010 by the Tribunal) and approved in Sukhwant Singh and in Vijay Kumar do not warrant any change or modification and the claim of disability pension is required to be dealt with accordingly:-*

"(a) The mere fact of a person being on 'duty' or otherwise, at the place of posting or on leave, is not the sole criteria for deciding attributability of disability/death. There has to be a relevant and reasonable causal connection, howsoever remote, between the incident resulting in such disability/death and military service for it to be attributable. This conditionality applies even when a person is posted and present in his unit. It should similarly apply when he is on leave; notwithstanding both being considered as 'duty'.

*(Emphasis supplied)*

(b) If the injury suffered by the member of the Armed Force is the result of an act alien to the sphere of military service or in no way be connected to his being on duty as understood in the sense contemplated by Rule 12 of the Entitlement Rules 1982, it would not be legislative intention or nor to our mind would be permissible approach to generalize the statement that every injury suffered during such period of leave would necessarily be attributable.

*(Emphasis supplied)*

(c) The act, omission or commission which results in injury to the member of the force and consequent disability or fatality must relate to military service in some manner or the other, in other words, the act must flow as a matter of necessity from military service.

(d) A person doing some act at home, which even remotely does not fall within the scope of his duties and functions as a Member of Force, nor is remotely connected with the functions of military service, cannot be termed as injury or disability attributable to military service. An accident or injury suffered by a member of the Armed Force must have some casual connection with military service and at least should arise from such activity of the member of the force as he is expected to maintain or do in his day-to-day life as a member of the force.

*(Emphasis supplied)*

(e) The hazards of Army service cannot be stretched to the extent of unlawful and entirely un-connected acts or omissions on the part of the member of the force even when he is on leave. A fine line of distinction has to be drawn between the matters connected, aggravated or attributable to military service, and the matter entirely alien to such service. What falls ex-facie in the domain of an entirely private act cannot be treated as legitimate basis for claiming the relief under these provisions. At best, the member of the force can claim disability pension if he suffers disability from an injury while on casual leave even if it arises from some negligence or misconduct on the part of the member of the force, so far it has some connection and nexus to the nature of the force.

*At least remote attributability to service would be the condition precedent to claim under Rules 173. The act of omission and commission on the part of the member of the force must satisfy the test of prudence, reasonableness and expected standards of behavior.*

*(e) The disability should not be the result of an accident which could be attributed to risk common to human existence in modern conditions in India, unless such risk is enhanced in kind or degree by nature, conditions, obligations or incidents of military service."*

*(Emphasis supplied)*

15. From the aforesaid, it is seen that the mere fact that a person being on duty or otherwise, at the place of his posting or on leave cannot be the sole criteria for deciding attributability of disability. There has to be a relevant and reasonable causal connection, howsoever, remote it may be between the incident resulting in such disability/death and military service for its attributability. The Hon'ble Supreme Court has categorically observed that the requirement of establishing such causal connection remains a sine qua non even where the personnel is physically present within the unit lines. If an injury sustained by a member of the Armed Forces is the result of an act alien to the sphere of military service, or is wholly unconnected with the discharge of official duties, or arises from an act or omission entirely unrelated to service conditions, a claim for disability pension cannot be sustained. It has further been held that the disability must not be the consequence of a mishap or accident attributable to risks common to human existence in modern societal conditions.

16. Reverting to the facts of the present case and testing them against the aforesaid legal principles, it is observed that the applicant suffered an acute

onset of headache, vomiting, and instability of gait, which ultimately resulted in loss of sensorium. Upon admission to the R&R Army Hospital, Delhi Cantt, he was diagnosed with "POST CIRCULATION STROKE (BASILAR ARTERY THROMBOSIS)." At this stage, it is pertinent to refer to Para 14, Chapter VI of the Guide to Medical Officers (Military Pensions), 2008, which deals with *Cerebrovascular Accident (Stroke)*. Though the said provision does not specifically refer to post circulation stroke, it broadly addresses the medical understanding of cerebrovascular accidents, within which Posterior Circulation Strokes form a recognised clinical category. The said paragraph, *inter alia*, states as under:

*"14. Cerebrovascular Accident (Stroke). Stroke or cerebrovascular accident is a disease of acute onset leading to neurological deficit such as hemiplegia caused by intravascular events. Cerebral infarction following thrombosis and embolism accounts for a large number of cases whereas cerebral haemorrhage is the cause only in a few cases. Atherosclerotic thrombosis is of gradual onset and any permanent neurologic deficit is preceded by TIAs (Transient Ischaemic Attacks).*

*TIAs result mostly from embolism of thrombus or platelet material from an extra cerebral artery (Internal carotid) and sometimes due to stenosis of a major artery, altering hemodynamics in the event of change of posture and exertion.*

*Mural thrombus from the heart in IHD and SBE and ulcerated plaques of atherosclerotic arteries are the principal source of embolism. Among other causes, physical trauma (heat) and mechanical trauma and arteritis associated with infection like TB, connective tissue disorder (PAN, SLE) can give rise to stroke. Service in HAA can precipitate stroke by virtue of hypercoagulable state.*

*About half of the strokes caused by cerebral haemorrhage are due to subarachnoid haemorrhage from rupture of a berry aneurysm (Circle of Willis) and less commonly due to arteriovenous malformation. Remaining cases of haemorrhage in cerebral substance are due to rupture of small*

*perforating arteries/arterioles weakened by hypertension or atheromatous degenerations.*

*The majority cases exhibit greater degree of hemiparesis, dysphasia (if the dominant hemisphere is involved), hemianesthesia and hemianopia. In some cases ataxia, cranial nerve palsy, nystagmus may be the presentation depending on the territory of the brain involved.*

*It will be appropriate to award attributability if there is sufficient evidence of infection underlying the disease and physical and mechanical trauma related to service.*

*Aggravation can be conceded when atherosclerosis is the underlying cause and exceptional stress and strain of service is in evidence irrespective of his service in peace or field."*

*(Emphasis supplied)*

17. A perusal of the aforesaid provision indicates that *attributability* may be conceded where there exists sufficient evidence of infection underlying the disease or where physical or mechanical trauma related to service has contributed to the onset of stroke. In the instant case, no material has been placed on record to establish that the stroke was preceded by any such infection or trauma attributable to service conditions. However, the same provision further clarifies that aggravation may be conceded where atherosclerosis is the underlying cause and exceptional stress and strain of service are evident, irrespective of whether the individual was serving in peace or field areas. Thus, the GMO itself makes no distinction between peace and field postings while assessing aggravation due to service conditions. In this context, it becomes relevant to examine the service profile of the applicant. The service record reflects that the applicant had served in varied and arduous terrains, including field areas and high

altitude areas (HAA), besides peace stations. The disability in question manifested during the later years of his service, i.e., around the 16th year of his military tenure, after he had already rendered more than 17 years of service under diverse and demanding climatic and operational conditions. In such circumstances, the possibility of exceptional stress and strain inherent in military service contributing to or aggravating the underlying pathology cannot be ruled out.

18. Further, considering the nature of military duties and the rigours associated with service in high-altitude and operational areas, it would not be unreasonable to infer that the pathological process culminating in the stroke may have had its genesis during the period of such strenuous service. The mere fact that the acute clinical manifestation occurred while the applicant was on casual leave does not, *ipso facto*, sever the potential nexus between the disability and the conditions of military service, particularly when the disease in question is one that may develop progressively over a period of time before manifesting acutely.

19. In the facts and circumstances of the case, we are of the considered view that although the acute episode manifested during the period of casual leave, the underlying etiology of the stroke cannot be completely dissociated from the cumulative stress and strain of the military service of the applicant. Therefore, giving the benefit of reasonable doubt in favour of the applicant and keeping in view the consistent approach adopted by

this Tribunal in similar matters, as well as the law laid down by the Hon'ble Supreme Court in *Dharamvir Singh v. Union of India and others* [(2013) 7 SCC 316], wherein it has been clearly held that any disease which arises during service is presumed to be attributable to military service if no note of such disease existed at the time of enrolment, we find no reason to deny the claim of the applicant.

20. In view of the foregoing discussion, we allow this OA and the respondents are directed to grant the disability pension to the applicant for the disability "POST CIRCULATION STROKE (BASILAR ARTERY THROMBOSIS)" @ 70% for life which be rounded off to 75% for life, with effect from the date of discharge of the applicant in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of *Union of India v. Ram Avtar* (Civil Appeal No. 418/2012) decided on 10.12.2014.

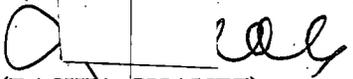
21. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of receipt of copy of this order. The amount of arrears however are directed to commence to run from a period of three years prior to the institution of the present OA, in terms of the verdict of the Hon'ble Supreme Court in *Union of India & Ors v. Tarsem Singh* reported in [(2008) 8 SCC 648] which shall be paid by the respondents, failing which the applicant will be entitled for interest @ 6% per annum from the date of receipt of copy of the order by the respondents.

22. There is no order as to costs.

23. Pending miscellaneous application(s), if any, stand closed.

Pronounced in open Court on 24<sup>th</sup> day of March, 2026.

(JUSTICE NANDITA DUBEY)  
MEMBER (J)

  
(RASIKA CHAUBE)  
MEMBER (A)

/s/

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

For Judgment  
B.

OA 1183/2019

Ex Hav Ajit Singh Yadav ..... Applicant  
VERSUS  
Union of India and Ors. .... Respondents

For Applicant : Mr. Rajiv Manglik, Advocate  
For Respondents : Mr. K K Tyagi Sr CGSC

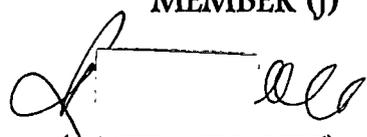
CORAM

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

ORDER  
24.03.2026

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)

YOGITA