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

A.

OA 119/2021

Sgt Manoj Kumar Shaw (Retd) ..... Applicant
VERSUS
Union of India and Ors. ..... Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate
For Respondents : Ms. Shagun Chugh, Advocate

CORAM

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

ORDER
15.04.2026

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)

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Sgt Manoj Kumar Shaw ..... **Applicant**
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Union of India and Ors. ..... **Respondents**

For Applicant : Mr. Manoj Kr Gupta, Advocate
For Respondents : Ms. Shagun Chugh, Advocate with
Mr. Swapnil Joshi, Advocate
Sgt. Pankaj Kumar Yadav, DAV In-charge,
Legal Cell

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

ORDER

This application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, seeking following reliefs:

(a) To direct the respondent to grant the disability pension as per assessment by RMB @ 20% broad banded to 50% in light of the judgment of the Hon'ble Supreme Court in UOI & Ors vs Ram Avtar dt. 10 Dec 2014, by treating the disabilities as attributable and aggravated by the Military service.

(b) Set aside the impugned order rejecting the claim of the applicant for disability pension which were arbitrary declared NANA.

(c) To direct the respondents to pay the due arrears of disability pension with interest @ 10% pa.a or pass such further order or Directions as this Hon'nle Tribunal may deem fit and proper in accordance with law.

FACTS

2. The applicant was enrolled in the Indian Air Force on 06.02.1997 and was discharged from service on 29.02.2020 on fulfilling the conditions of enrolment

after rendering a total 23 years and 34 days of service. At the time of discharge, RMB found that the applicant to be released in in low medical category for the disability of **DM type-II assessed @ 20% for life,** with the RMB having opined the disabilities as being 'neither attributable to nor aggravated by military service.'

3. The claim for grant of disability pension was rejected vide letter No AIR HQ/99798/1/773445/02/20/DAV(DP/RMB) dated 24.10.2019 stating that the applicant is not entitled for disability pension in terms of Regulation 153 of Pension Regulations for the IAF 1961.

4. The applicant, thereafter, preferred first appeal dated 30.05.2020 for grant of disability pension and the same for rejected vide letter dated 09.04.2021.

SUBMISSIONS ON BEHALF OF THE APPLICANT

5. The Learned Counsel for the applicant submitted that no note of any disability was recorded in the service documents of the applicant at the time of the entry into the service, thereby establishing that the applicant was medically fit and free from any pre-existing spinal ailment at the time of enrolment, and that the applicant suffered disability of DM Type II while in service owing to the strenuous, stressful, and physically demanding conditions under which he was required to discharge his duties.

6. The Counsel for the Applicant contended that the rejection of attributability was mechanical and contrary to the Guide to Medical Officers (Military Pension), 2002 and 2008, as well as the settled law laid down by the Hon'ble Supreme Court in *Dharamvir Singh vs. Union of India & Ors.* (Civil Appeal No. 4949 of

2013, decided on 02 July 2013), *Union of India & Ors. vs. Rajbir Singh* (2015) 12 SCC 264, *Union of India & Ors. vs. Sukhvinder Singh* (CA No. 5605 of 2010, decided on 25 June 2014), and *Union of India vs. Ram Avtar* (CA No. 418 of 2012, decided on 10 December 2014). Reliance was further placed on the judgment in *Union of India vs. Manjeet Singh* (CA Nos. 4357–4358 of 2015, decided on 12 May 2015), where similar reasoning was adopted.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

7. Per contra, the learned counsel for the respondents submits that the Release Medical Board (RMB) had assessed the applicant's disability at 20% for life and opined that the same was neither attributable to nor aggravated by military service. However, since the disability qualifying for pension was assessed as 'NIL', the applicant is not entitled to disability pension. It is further submitted that the Appellate Committee, while rejecting the applicant's first appeal, observed that the disability in question is a metabolic disorder of idiopathic origin with a strong genetic and familial predisposition. Accordingly, it was held that the disability is not related to service. Moreover, the onset of the disability occurred during a peace posting, with no evidence of close temporal association with service-related stress or strain, such as those arising from duty in field, high-altitude, counter-insurgency, or active operational areas.

ANALYSIS

8. Heard learned counsel for the parties and perused the record as well as the Release Medical Board (RMB) proceedings produced before us. As the disability

in question, i.e., Diabetes Mellitus, has been assessed @ 20% for life, the only issue which needs to be considered in this case is as to whether the applicant's disability is attributable to/aggravated by the military service or not.

9. The law has by now crystallized that if there is no note or report of the Medical Board at the time of entry into service that the individual suffered from any particular disease, the presumption would be that the individual got affected by the said disease because of the service conditions. Therefore, the burden of proving that the disease is not attributable to or aggravated by the service rests entirely on the employer/respondents.

10. There is also no gainsaying that the opinion of the Medical Board, being an expert body, has to be given due weight and credence. In the present case we have called for the medical record of applicant for last ten years as we found that the onset of the disability D.M.-II was detected at the time of RMB. After going through the medical record, we found that the individual has been found fit and was placed in category A4G1 ie. shape 1 in all annual medical boards and there was never any complaint regarding any stress or strain. It was only in the RMB conducted on 4 April 2019 that his category was downgraded to A4G4 (P) when he was diagnosed with ID "Diabetes Mellitus type-2".

11. Therefore, we find that the disability of D.M-II was diagnosed at fag end of the applicant's career in April 2019 and was assessed @ 20% for life, resulting in the applicant being placed in the low medical category 'A4G2 (P)' at the time of discharge from service. There is no record of any causal connection of the disability to the service conditions. On perusal of the RMB, we find that even according to the

applicant, there were no incidents of service which had been caused exceptional stress and strain or had made the disability worse.

12. Furthermore, the RMB has opined the disability of Primary Hypertension as Neither Attributable to Nor Aggravated by service. That expert view carries due weight in the absence of cogent medical material demonstrating a service-related causal chain or aggravation. The issue has been dealt by Hon'ble Supreme Court in ***Ex CFN Narsingh Yadav v. UoI*** (Civil Appeal No. 7672 of 2019), wherein it was held that:-

> ***"21. Though, the opinion of the Medical Board is subject to judicial review but the Courts are not possessed of expertise to dispute such report unless there is strong medical evidence on record to dispute the opinion of the Medical Board which may warrant the constitution of the Review Medical Board. The invaliding Medical Board has categorically held that the appellant is not fit for further service and there is no material on record to doubt the correctness of the Report of the invaliding Medical Board."***

13. At this point, it is also relevant to refer to the observations made by Hon'ble Supreme Court in ***Secretary, Ministry of Defence and others vs A.V.Damodaran (dead) through LRs and others*** **[(2009) 9 SCC 140],** clearly brings out the following principles with regard to primacy of medical opinion have been laid down:-

> ***"8. When an individual is found suffering from any disease or has sustained injury, he is examined by the medical experts who would not only examine him but also ascertain the nature of disease/injury and also record a decision as to whether the said personnel is to be placed in a medial category which is lower than 'AYE' (fit category) and whether temporarily or permanently. They also give a medical assessment and advice as to whether the individual is to be brought before the release/invalidating medical board. The said release/invalidating medical board generally consists of three doctors and they, keeping in view the clinical profile, the date and place of onset of invaliding disease/disability and***

service conditions, draws a conclusion as to whether the disease/injury has a causal connection with military service or not. On the basis of the same, they recommend (a) attributability, or (b) aggravation, or (c) whether connection with service. The second aspect which is also examined is the extent to which the functional capacity of the individual is impaired. The same is adjudged and an assessment is made of the percentage of the disability suffered by the said personnel which is recorded so that the case of the personnel could be considered for grant of disability element of pension. Another aspect which is taken notice of at this stage is the duration for which the disability is likely to continue. The same is assessed/recommended in the form of AFMSF-16. The Invalidating Medical Board forms its opinion/recommendations on the basis of the medical report, injury report, court of enquiry proceedings, if any, charter of duties relating to peace or field area and, of course, the physical examination of the individual.

9. The aforesaid provisions came to be interpreted by the various decisions rendered by this Court in which it has been consistently held that the opinion given by the doctors or the medical board shall be given weightage and primacy in the manner for ascertainment as to whether or not the injuries/illness sustained was due to or was aggravated by the military service which contributed to invalidation from the military service."

14. With the issue of primacy of medical opinion no longer res integra as held by Hon'ble Supreme Court in ***Ex CFN Narsingh Yadav (supra)*** we must reiterate that we are not medical specialists to scrutinize the opinion of medical boards, and it would not only be beyond our jurisdiction but also hazardous if this Court were to examine the accuracy of such expert opinion, based on competing medical opinions. The scope of judicial review does not entail the Court embarking upon such misadventures. As far as judicial review of decisions based on medical expert opinion is concerned, there is no doubt that wide latitude is provided to the

executive in such matters and the Court does not have the expertise to appreciate and decide on merits of medical issues on the basis of divergent medical opinion.

15. The medical records does not reveal any medical data, service document, or corroborative material establishing a causal or aggravating nexus between the applicant's duties and the onset or development of the ailment. Therefore single existence of PHT cannot be made the basis for grant of disability element of pension. The disability, therefore, is assessed as purely constitutional and unconnected with military service exigencies. In the absence of any demonstrable link between duty conditions and disease progression, this Court finds no justification to interfere with the opinion of the competent medical board. Consequently, the Original Application, being devoid of merit, stands dismissed.

16. In view of the aforesaid analysis, this Court concludes that there is no demonstrable causal or aggravating link between the applicant's service and the onset or progression of his disability. The opinion of the RMB warrants no interference. The present Original Application is, therefore, devoid of merit and is liable to be dismissed.

17. There shall be no order as to costs.

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

Pronounced in open Court on 15th day of April, 2026.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)