COURT NO. 3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1297 of 2019

Nk Parshotam Singh (Retd) ... **Applicant**

Versus

Union of India & Ors. ... **Respondents**

For Applicant : Mr. Virender Singh Kadian, Advocate

For Respondents : Mr. Y.P Singh, Advocate

CORAM:

HON'BLE MS. JUSTICE NANDITA DUBEY, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R

1. Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA and the reliefs claimed in Para 8 read as under:

> ***"(a) Quash and set aside the impugned letter No B/40502/903/2018/AG/PS-4(Imp-II) dated 05.04.2019. And/or.***
>
> ***(b) Direct respondents to treat the disability of the applicant as attributable to or aggravated by military service and grant disability element of pension with benefits of broad banding/rounding off the same. and/or.***

(c) ***Direct respondents to pay the due arrears of disability element of pension with interest @12% p.a from the date of retirement with all the consequential benefits.***

(d) ***Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."***

BRIEF FACTS

2. The applicant, having been found medically and physically fit after thorough medical examination, was enrolled in the Dogra Regiment of Indian Army on 26.10.1983 and was discharged from service on 31.10.2000 under the provisions of Army Rule 13 (3) III (i) i.e., on completion of period of service/tenure and age limit after rendering 17 years and 06 days of service and is in receipt of service pension for life vide PPO No. S/033793/2000(Army) and thereafter, he was re-enrolled in the DSC Services of Indian Army on 30.07.2003 and was discharged from service on 31.07.2018 under the provisions of Army Rule 13 (3) III (i) i.e., on completion of period of service/tenure and age limit after rendering 15 years, and 02 days of service and the applicant was in receipt of service pension vide PPO No. 194201802459. The Release Medical Board (RMB) held on 19.03.2018 assessed the applicant's disability 'Coronary

Artery Disease-Post PAMI to LAD (I 25.9)' @ 20% for life and held the said disability as 'neither attributable to nor aggravated by military service' (NANA). Based on the recommendations of the RMB, the disability pension was denied to the applicant.

3. The initial claim for disability pension of the applicant was rejected and the said decision was communicated to the applicant vide letter No. Pen/DP/T-3/3984737W dated 20.08.2018, vide which the applicant was informed about his non-entitlement to the disability element of disability pension, with instructions to prefer a First Appeal before the Appellate Committee for First Appeal (ACFA) within six months, if aggrieved by the decision. Thereafter, the applicant preferred his first appeal dated 08.09.2018 against rejection of initial claim for grant of disability pension, which was also rejected by the Appellate Committee on First Appeal (ACFA) vide letter No. B/40502/93/2018/AG/PS-4(Imp-II) dated 05.04.2019 with an advice that in case, the applicant is not satisfied with the decision of the respondents, he may prefer second appeal to the Second Appellate Committee on Pension (SACP) within six months from the date of issue of the above mentioned letter. Aggrieved by the rejection of his

claim, the applicant has filed the present OA on 07.08.2019. In the interest of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(2)(b) of the AFT Act, 2007.

CONTENTIONS OF THE PARTIES

4. The learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fully fit mentally and physically and no note of any disability was made in his medical record at the time of entering the service and after discharge from the first service, the applicant, being in fit medical category, was re-enrolled in the DSC on 30.07.2003, however, at the time of discharge from the DSC in 2018, he was in the low medical category and, therefore, any medical disability contracted by him during the course of his service in DSC should be treated as being attributable and/or aggravated by the stress and strain of his service. The learned counsel explained about the stressful and challenging conditions of service undertaken by the applicant during his second service tenure. The learned counsel submitted that the applicant was posted at various peace as well as field stations in different parts of the country and had served in tough and different weather and

environmental conditions in his career and discharged all assigned duties with utmost dedication in a well-disciplined and professional manner.

5. The learned counsel for the applicant further contended that the instant matter is squarely covered by a catena of judgments of the Hon'ble Supreme Court such as ***Dharamvir Singh*** v. ***Union of India & Ors.*** (Civil Appeal No. 4949 of 2013) [2013 (7) SCC 316], 2013 (12) JT 44], ***Union of India and Anr.*** v. ***Rajbir Singh, Civil Appeal No. 2904/2011*** [(2015) (2) SCALE 371], 2015 (2) JT 392, 2015 (3) SLR 318 vide judgment dated 13.02.2015.

6. The learned counsel further placed reliance on the order of Hon'ble High Court of Delhi in WP(C) 57/2026 titled ***UOI & Ors.*** vs. ***Air Cmde Raghvendra Kumar Tripathi (Retd)*** and in WP(C) 17301/2025 titled ***UOI & Ors.*** vs. ***Ex JWO Brij Mohan Verma*** and submitted that the respondents' action in denying him the disability pension is unjustified and unlawful, when the disabilities recorded by the RMB occurred during the military service and thus were caused due to stress and strain of service. The learned counsel, therefore, prayed that the disability in question may be held to be attributable to and/or aggravated by military

service and that the disability element of pension may be granted to the applicant.

7. *Per contra,* the learned counsel for the respondents contended that the applicant was re-enrolled in the DSC of Indian Army on 30.07.2003 and on completion of his terms of engagement he was granted periodical extension of service from 30.07.2013 to 29.07.2018 and he was discharged from service on 31.07.2018 under the provisions of Army Rule 13 (3) III (i) i.e., on completion of period of service/tenure and age limit after rendering 15 years and 02 days of service and the applicant was in receipt of service pension for life vide PPO No. 194201802549 . The applicant is not entitled to the relief claimed since the RMB, being an Expert Body, found the disability as being "Neither Attributable to Nor Aggravated by Military Service".

8. The learned counsel further submitted that since the applicant's disability does not fulfill one of the conditions in terms of provisions of Rule 53 (a) of Pension Regulations for the Army 2008 (Part-I) as the same was assessed as neither attributable to nor aggravated by military service and the applicant has not exhausted the remedy of filing a second appeal. Hence, the applicant is not entitled to the grant of

the disability element of pension. The learned counsel thus prayed that OA deserves to be dismissed.

ANALYSIS

9. We have heard the learned counsel for the parties and have carefully perused the materials available on record. The applicant's disability 'Coronary Artery Disease-Post PAMI to LAD' has been assessed by the RMB @ 20% for life, hence, the issue for consideration in this case is whether the disability of the applicant can be held to be 'attributable to and/or aggravated by military service (DSC) or not.

10. With regard to the attributability/aggravation of a disability, CAD herein, the consistent stand taken by this Tribunal is based on the law laid down by the Hon'ble Supreme Court in the case of ***Dharamvir Singh Vs. Union of India and others [(2013) 7 SCC 316]***, which has been followed in subsequent decisions of the Hon'ble Supreme Court and in the number of orders passed by the Tribunal, wherein the Apex Court had considered the question with regard to payment of disability pension and after taking note of the provisions of the Pension Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers, it was held by the Hon'ble Supreme Court that an Army

personnel shall be presumed to have been in sound physical and mental condition upon entering service except as to physical disabilities noted or recorded at the time of entrance and in the event of his being discharged from service on medical grounds, any deterioration in his health, which may have taken place, shall be presumed to be due to service conditions. The Apex Court further held that the onus of proof shall be on the respondents to prove that the disease from which the incumbent is suffering is neither attributable to nor aggravated by military service. The relevant para thereof is reproduced hereunder:-

> ***"28. A conjoint reading of various provisions, reproduced above, makes it clear that:***
> ***(i) Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable or aggravated by military service to be determined under "Entitlement Rules for Casualty Pensionary Awards, 1982" of Appendix-II (Regulation 173).***
> ***(ii) A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service. [Rule 5 r/w Rule 14(b)].***
> ***(iii) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive***

benefit of any reasonable doubt and is entitled for pensionary benefit more liberally. (Rule 9).
(iv) If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service. [Rule 14(c)].
(v) If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service. [14(b)].
(vi) If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons. [14(b)]; and
(vii) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the "Guide to Medical (Military Pension), 2002 – "Entitlement : General Principles", including paragraph 7, 8 and 9 as referred to above."

11. The 'Entitlement Rules for Casualty Pensionary Awards, to the Armed Forces Personnel 2008, which take effect from 01.01.2008 provide vide Para's 6, 7, 10 & 11 thereof as under:

"6. Causal connection:
For award of disability pension/special family pension, a causal connection between disability or death and military service has to be established by appropriate authorities.

7. Onus of proof:
Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/ invalidment/ release by which time the service documents of the claimant are destroyed after the prescribed retention period, the ouns to prove the entitlement would lie on the claimant.

10. Attributability:
Injuries:
In respect of accidents or injuries, the following rules shall be observed:
i) Injuries sustained when the individual is 'on duty', as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).
ii) In cases of self-inflicted injuries white 'on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.

(b) Disease:

(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-
(a) that the disease has arisen during the period of military service, and
(b) that the disease has been caused by the conditions of employment in military service.

(ii) Disease due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contacted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical courses as determined by the competent medical authority.

(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture and current scientific medical application.

(iv) when the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.

11. Aggravation:
A disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic

conditions, environmental factors related to service conditions e.g. Fields, Operations, High Altitude etc."

12. Furthermore, Regulation 423 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.***
>
> ***(b). Decision regarding attributability of a disability or death resulting from wound or injury will be taken by the authority next to the Commanding officer which in no case shall be lower than a Brigadier/Sub Area Commander or equivalent. In case of injuries which were self-inflicted or due to an individual's own serious negligence or misconduct, the Board will also comment how far the disablement resulted from self-infliction, negligence or misconduct.***

(c). The cause of a disability or death resulting from a disease will be regarded as attributable to Service when it is established that the disease arose during Service and the conditions and circumstances of duty in the Armed Forces determined and contributed to the onset of the disease. Cases, in which it is established that Service conditions did not determine or contribute to the onset of the disease but influenced the subsequent course of the disease, will be regarded as aggravated by the service. A disease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in Service if no note of it was made at the time of the individual's acceptance for Service in the Armed Forces. However, if medical opinion holds, for reasons to be stated that the disease could not have been detected on medical examination prior to acceptance for service, the disease will not be deemed to have arisen during service.

(d). The question, whether a disability or death resulting from disease is attributable to or aggravated by service or not, will be decided as regards its medical aspects by a Medical Board or by the medical officer who signs the Death Certificate. The Medical Board/Medical Officer will specify reasons for their/his opinion. The opinion of the Medical Board/Medical Officer, in so far as it relates to the actual causes of the disability or death and the circumstances in which it originated will be regarded as final. The question whether the cause and the attendant circumstances can be accepted as attributable to/aggravated by service for the purpose of pensionary benefits will, however, be decided by the pension sanctioning authority.

(e). To assist the medical officer who signs the Death certificate or the Medical Board in the case of an invalid, the CO unit will furnish a report on :

AFMSF – 16 (Version – 2002) in all cases

(ii) IAFY – 2006 in all cases of injuries.

(f). In cases where award of disability pension or reassessment of disabilities is concerned, a Medical Board is always necessary and the certificate of a single medical officer will not be accepted except in case of stations where it is not possible or feasible to assemble a regular Medical Board for such purposes. The certificate of a single medical officer in the latter case will be furnished on a Medical Board form and countersigned by the Col (Med) Div/MG (Med)

Area/Corps/Comd (Army) and equivalent in Navy and Air Force."

(emphasis supplied)

has not been obliterated.

13. The onset of the disability of the applicant, namely 'Coronary Artery Disease-Post PAMI to LAD' was in 15.02.2012. For determining the attributability or aggravation of the disability, we would like to refer to the Para 47 for Ischaemic Heart Disease, contained in Chapter VI of the Guide to Medical Officers (Military Pension), 2002 amended 2008 (hereinafter referred to as '(GMO (MP) 2008)', which is reproduced hereunder:-

> "47. Ischaemic 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."
>
> (emphasis supplied),

14. In the present case, the applicant having re-joined the DSC service on 30.07.2003 after rendering 17 years and 02 days' service in the Dogra Regiment of Indian Army contracted the disability in question i.e., 'Coronary Artery Disease-Post PAMI to LAD' on 15.02.2012 i.e., after more than 8 years of serving in the DSC and 17 years of service in the Army. During this long spell of service, from the records, it is clear that the applicant was posted in one Fd area from 13.12.2009 to 11.08.2011 along with the several peace area postings in different climatic and environmental conditions and difficult terrain. The cumulative stress and strain of such a long spell of service including the services rendered in the field area cannot be overlooked while considering the attributability of the disability in question and, therefore, we hold the applicant's disability of 'Coronary Artery Disease-Post PAMI to LAD' as attributable to service conditions. The applicant, have having been diagnosed with the disability in

question in 2012, continued in DSC service, and thus aggravation of the disability by the military service can also not be ignored in this case. Moreover, it has already been observed by the Tribunal in large number of cases that the armed force services, even in peace area, have their own pressure of rigorous military training and associated stress and strain of the service. It may also be taken into consideration that the most of the personnel of the armed forces live without their family, work in the stressful and hostile environment, difficult weather conditions and under strict disciplinary norms. We, therefore, hold the applicant's disability 'Coronary Artery Disease-Post PAMI to LAD' to be attributable to and aggravated by the military service and thus the applicant is entitled for the grant of disability element of disability pension for the disability 'Coronary Artery Disease-Post PAMI to LAD' assessed @ 20% for life along with the benefit of broad-banding thereof.

CONCLUSION

15. In view of the above, OA 1297 of 2019 is allowed. The respondents are directed to grant the disability element of disability pension for the disability 'Coronary Artery Disease-

Post PAMI to LAD' @ 20% for life, which be rounded off to 50% for life, with effect from the date of discharge from DSC Service in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of ***Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012)*** decided on 10.12.2014.

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

17. There is no order as to costs.

Pronounced in open Court on this 13th day of March, 2026.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/AK/

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A.

OA 1297/2019 WITH MA 2038/2019

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CORAM

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
13.03.2026

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)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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