

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

OA 2186/2025

Brig Vijay Paul Singh (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. Indra Sen Singh, Advocate

For Respondents : Mr. Vishal Meghwal, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

1. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant vide the present OA makes the following prayers:-

"(a) Set aside the Impugned order dated 30.08.2023 (Annexure: A-1, Pg.26) whereby the Applicant's claim for the disability element of pension has been arbitrarily rejected by the Respondents;
(b) Direct that Applicant's disability on account of "(I) 'HORSE SHOE KIDNEY (CAKUT) (Q 63.1)' (II) 'TYPE-2 DIABETES MELLITUS (E 11.9)' AND (III) 'SUBCLINICAL HYPOTHYROIDISM (E 02)'" was either 'Aggravated By', or at least attributable to, military service;
(c) Direct the Respondents to pay disability element of pension on account of "(I) 'HORSE SHOE KIDNEY (CAKUT) (Q 63.1)', (II) 'TYPE-2 DIABETES MELLITUS (E 11.9)' and (III) 'SUBCLINICAL HYPOTHYROIDISM (E 02)'" with effect from 31.01.2023 (AN) thereby granting

the benefit of rounding off / broad-banding policy of the Govt.;

(d) Direct the Respondents to pay arrears of disability element of pension, after calculating the same at the rate of 50% with effect from 31.01.2023 (AN), with interest at the rate of 10% per annum until the date of actual payment; and

(e) Issue such order(s)/direction(s) as may be deemed appropriate in the facts and circumstances of the case.

BRIEF FACTS

2. The applicant was commissioned in the Indian Army on 13.06.1987 and retired from the service on 31.01.2023 under the clause of "On attaining the age of superannuation" after rendering total 35 years 07 months and 18 days of regular service. The Release Medical Board held on 13.01.2023 found the applicant fit to be released from service in low medical category P2 (P) and assessed the disabilities of (i) Horse Shoe Kidney (CAKUT) @ 10% for life, (ii) Type-2 Diabetes Mellitus (E 11.9) @ 20% for life (iii) Subclinical Hypothyroidism (E 02) @10% for life, compositely assessed @35.2% for life. While the second disability, 'Type-2 Diabetes Mellitus' was conceded to be 'Aggravated by military service', the other two disabilities viz Horse Shoe Kidney (CAKUT) (Q63.1) and Subclinical Hypothyroidism (E 02) were held to be 'neither attributable

to nor aggravated by service' vide RMB dated 13.01.2023.

However, the applicant was not granted the disability.

3. The initial claim of the applicant for grant of the disability pension was rejected by the Adjutant General's Branch, IHQ of MoD (Army) vide letter No. 52334/IC-44500X/Brig/MP-6(A)/15/2023/AG/MP (ORO) dated 05.04.2023 with an advice that in case, the applicant is not satisfied with the decision of the respondents, he may prefer an appeal to the Appellate Committee within six months from the date of receipt of the above mentioned letter. The applicant preferred his first appeal dated 21.05.2023 against rejection of initial claim grant of disability pension, which was also rejected by the Appellate Committee on First Appeal (ACFA) vide letter No. 52334/IC-44500X/ BRIG/ MP-6(A)/ 261/ 2023/ AG/ PS-8 dated 30.08.2023. The applicant preferred his second appeal dated 27.10.2023 but the same was not replied to by the respondents. Aggrieved by the non-response to his second appeal, the applicant has filed the present OA on 03.07.2025. In the interest of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(2) of the AFT, Act 2007.

CONTENTIONS OF THE PARTIES

4. The learned counsel for the applicant submitted that the prayers made in the present OA are confined to the grant of disability element of pension in relation to the disability of (i) Type-II Diabetes Mellitus @ 20% for life only and the prayer made for grant of disability element of pension in relation to other disabilities viz 'Horse Shoe Kidney (CAKUT)' and 'Subclinical Hypothyroidism' are not pressed.

5. Placing reliance on the judgment of the Hon'ble Supreme Court in ***Dharamvir Singh v. UOI & Ors [2013 (7) SCC 36]***, 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, and that he served in the Army at various places in different environmental and service conditions in his prolonged service and thus thereby, any disability during the time of his service has to be deemed to be attributable to or aggravated by military service.

6. It was further submitted on behalf of the applicant that the applicant's disability of 'Type-2 Diabetes Mellitus' was detected in Dec 2019 while he was working in HQ 16

Corps Nagrota (J&K) after around 32 years of continuous service.

7. The learned counsel for the applicant also placed reliance on judgment of the Hon'ble Supreme Court in **UoI & Ors. vs Rajbir** in Civil Appeal No. 2904/2011 and also on various judgments of Hon'ble High Court of Delhi in **UoI & Ors. vs Ex Sub Gawas Anil Madso** (W.P.(C) 3545/2025), **UoI & Ors. vs. Ex Nk Amin Chand** (W.P.(C) 3667/2025) and **UoI & Ors. vs. Ex-LME Dheeraj Kumar Singh (No. 134716-F)** W.P.(C) 3865/2025, to submit that the disability is to be treated as attributable to/aggravated by military service.

8. The learned counsel further placed reliance on the decision of the AFT, Principal Bench, New Delhi in the case of OA 1276/2021 titled **Ex WO Suddapalle Nissar Basha vs. UOI & Ors** decided on 01.11.2023, OA 2418/2019 titled **Ex Sub Maj (AIG) Navin Kumar vs. UOI & Ors** decided on 29.03.2023 and OA 1857/2021 titled **Ex WO Pradeep Kumar Sharma vs. UOI & Ors** decided on 12.05.2023 wherein similarly situated persons were granted relief.

9. Furthermore, learned counsel for the applicant submitted that even though the applicant's disability of

'Type-2 Diabetes Mellitus' has been conceded as aggravated by the Military service by the Release Medical Board held on 13.01.2023, but the claim of his disability pension was rejected by the Competent Authority stating as 'NANA'.

ANALYSIS

10. We have heard the learned counsel for the parties and have perused the record produced before us.

11. In view of the disabilities of the applicant namely 'Horse Shoe Kidney (CAKUT)' and 'Subclinical Hypothyroidism' not being pressed by the applicant, we adjudicate only for the disability of 'Type-II Diabetes Mellitus', which has been assessed @ 20% for life.

12. It is an undisputed fact that at the time of joining the service in June, 1987, the applicant was found medically and physically fit and the present disability had admittedly first occurred in Dec, 2019, i.e. after about 32 years and 6 months of service and was conceded as 'aggravated by service' by the Release Medical Board dated 13.01.2023 with the reasons for assessment being 'Aggravated' mentioned as 'Onset of ID was in Jan 2020, while serving in HQ 16 Corps Nagrota (J&K) (Fd). ID considered as aggravated by mil service as per Para 26 Chapter VI GMO's Mil Pen 2008' in the

Part VII, Opinion of the Medical Board of the RMB. The same is reproduced to the effect:-

PART VII
OPINION OF THE MEDICAL BOARD

1. Please endorse diseases/ dis in chronological order of occurrence:-

Disability	Attributable to service (Y/N)	Aggravated by service (Y/N)	Detailed Justification
(a) HORSE SHOE KIDNEY (CAKUT) (Q 63.1)	No	No	Onset of ID was in Jan 2019, while serving in HQ 16 Corps, Nagrota (J&K) (Fd). ID considered as neither attributable nor aggravated by mil service as it is congenital refer Para 74 Chapter VI GMO's Mil Pen 2008 amendment.
(b) TYPE-2 DIABETES MELLITUS (E 11.9)	No	Yes	Onset of ID was in Jan 2020, while serving in HQ 16 Corps Nagrota (J&K) (Fd). ID considered as aggravated by mil service as per Para 26 Chapter VI GMO's Mil Pen 2008
(c) SUBCLINICAL HYPOTHROIDISM (E 02)	No	No	Onset of ID was in Jun 2022, while serving in E-in-C branch New Delhi. ID is multifactorial disorder not conceded attributable to nor aggravated by mil service (In present case, it is neither auto immune as per spl opinion nor post therapeutic or post diagnostic intervention). As per O/o DGAFMS letter No RMB / IMB/ DGAFMS/MA/ Pens dt 20 May 2019.

Note:- 1. A detailed justification regarding the board's rec on the entitlement for each disease/ dis must be provided sequentially especially in **NANA** cases as per enclosed Appendix 'A'.

2. In case of multiple dis of inadequate space, does not paste over the opinion, an additional sheet should be attached instead, providing a detailed justification, which is authenticated by the President and all members of the med bd.

3. In case the medical board differs in opinion from the previous medical board, a detailed justification explaining the reasons to differ should be brought out clearly.

4. A dis cannot simultaneously be both attributable to and aggravated by mil service, or one or neither of which will apply.

13. However, the competent authority after adjudication opined the said disability to be 'NANA' without stating any reason for disagreeing with the findings of the Medical Board. The assessment/opinion of the RMB has been overruled by the administrative authority resulting in denial of the disability element of pension to the applicant.

14. The primacy of the opinion/assessment of a Medical Board is no more **res integra**. The case in hand is squarely covered by the decision of the Hon'ble Supreme Court in the case of **Ex Sapper Mohinder Singh Vs. Union of India & Ors. [Civil Appeal No. 104 of 1993]** decided on 14.01.1993, wherein the Hon'ble Supreme Court has observed that without physical medical examination of the patient, the administrative/higher authority cannot sit over the opinion of a medical board. The observations of the Hon'ble Supreme Court in the judgment in the case of **Ex Sapper Mohinder Singh** (supra) being relevant are quoted below:-

"From the above narrated facts and the stand taken by the parties before us, the controversy that falls for determination by us is in a very narrow compass viz. whether the Chief Controller of Defence Accounts (Pension) has any jurisdiction to sit over the opinion of the experts (Medical Board) while dealing with the

case of grant of disability pension, in regard to the percentage of the disability pension or not. In the present case, it is nowhere stated that the petitioner was subjected to any higher medical Board before the Chief Controller of Defence Accounts (Pension) decided to decline the disability pension to the petitioner. We are unable to see as to how the accounts branch dealing with the pension can sit over the judgment of the experts in the medical line without making any reference to a detailed or higher Medical Board which can be constituted under the relevant instructions and rules by the Director General of Army Medical Core.”

15. In view of the decision of the Hon'ble Supreme Court in ***Ex Sapper Mohinder Singh*** (Supra), which has been relied upon in numerous orders of the Tribunal, we are of the considered view that the assessment/opinion of the RMB with regard to the disability in question to claim for disability element of pension was wrongly interfered with by the administrative authority which is unsustainable in law when the disability of the applicant has already been held as 'Aggravated by military service' by the RMB, which is a medical expert body. We, therefore, hold that the applicant is entitled to the disability element of disability pension in respect of the disability of 'Type-II Diabetes Mellitus' assessed @ 20% for life along with broad-banding benefits.

CONCLUSION

16. In light of the above, O.A. No. 2186 of 2025 is allowed.

The respondents are directed to grant the applicant disability element of disability pension with respect to his disability of 'Type-II Diabetes Mellitus' @ 20% for life from the date of release, which is directed to be further rounded-off to 50% for life 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.

17. 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 and the amount of arrears 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.

18. There is no order as to costs.

Pronounced in the open Court on this 3rd day of
February, 2026.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/AK/