

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

OA 3946/2023

Col Dinesh Khanna (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Indra Sen Singh, Advocate
For Respondents : Mr. Shailesh Sharma, Advocate

Dated: 16th March, 2026

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

The applicant has filed this OA under Section 14 of the Armed Forces Tribunal Act, 2007 seeking the following reliefs:

- (i) *Set aside the impugned order dated 16.06.2023 (Annexure A1), whereby the applicant's claim for disability element of pension has been arbitrarily rejected by the respondents;*
- (ii) *Direct the respondents to pay disability element of pension on account of 'PRIMARY HYPERTENSION' ASSESSED @ 50% (30% rounded off to 50%) FOR LIFE with effect from 30.06.2022 (AN) thereby granting the benefit of rounding off/ broad-banding policy of the Government;*
- (iii) *Direct the respondents to pay arrears of disability element of pension after calculating the same at the rate of 50% with effect from 30.06.2022 (AN) with interest at the rate of 10% per annum until the date of annual payment; and*

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

2. Facts leading to the filing of this OA are that the applicant was commissioned in the Army on 26th August, 1989 in the Corps of Engineers and after putting about 33 years of service retired on 30th June, 2022 in a downgraded permanent medical category. The Release Medical Board (RMB) convened prior to his retirement assessed his disabilities (i) Dyslipidaemia at 05% and (ii) Primary Hypertension at 30% both for life. The composite assessment of these disabilities was made at 33.5% for life. The RMB specifically opined that the disability "Primary Hypertension" was aggravated by military service, noting that its onset occurred while the applicant was serving in Guwahati (CI Ops Area). Apart from the place of onset, the disabilities were also attributable to prolonged manifestation consequent to periodic and repeated tenures in field/modified field/CI Ops areas/high altitude areas (ten such tenures) coupled with work pressure and strenuous duties in peace areas involving stress and strain arising from repeated formation and unit-level field exercises, field trials, combat engineering training camps, operational works and other physical and mental rigours of

military service. Despite the RMB having assessed the disabilities and recorded aggravation of Primary Hypertension by military service, the respondents rejected the applicant's claim for grant of disability pension stating that the disabilities do not fulfil the eligibility conditions laid down under the existing rules/provisions for grant of disability element. Aggrieved thereby, the applicant preferred a first appeal against the rejection of his claim, which was also rejected on the ground that the disabilities were neither attributable to nor aggravated by military service. The applicant filed a second appeal on 31st July, 2023, the outcome of which has not yet been communicated to him. Hence, the present OA seeking the reliefs as prayed for in the OA.

3. Before we proceed further, we may note that during the course of arguments, on the submission of learned counsel for the applicant, this Court vide its order dated 19th January, 2026 recorded that *"Even though the applicant has two ailments but he only presses for the ailment of Primary Hypertension"* thus the applicant's claim for disability pension in this OA is restricted only to his ailment of Primary Hypertension.

4. Mr. I.S. Sen, learned counsel for the applicant, contended that the impugned orders rejecting the claim for disability element of pension are legally unsustainable and contrary to both the medical opinion on record as well as the settled position of law. He submitted that the RMB, a duly constituted expert body, had assessed the applicant's disability of Primary Hypertension at 30% for life. The RMB categorically opined that Primary Hypertension was aggravated by military service recording its onset while the applicant was serving in a CI Ops area at Guwahati. Learned counsel for the applicant further submitted that once the competent medical board has recorded a finding of aggravation by military service, the same cannot be brushed aside by the administrative authorities without availability of any contrary medical opinion on record. The respondents have rejected the claim of the applicant without referring the matter to any higher medical board or recording cogent reasons for disagreeing with the RMB's findings, thereby acting arbitrarily and in violation of the governing principles.

5. Learned counsel further placed reliance on Paragraphs 7, 8 and 9 of Chapter II of the Guide to Medical Officers (Military

Pensions), 2002, which lay down the “Entitlement: General Principles.” He submitted that these provisions mandate that entitlement to disability pension must be determined on broad and liberal considerations and that if a disease has arisen during service and there is no note of such disease at the time of entry into service, it shall ordinarily be presumed to have been incurred in service. The burden lies on the respondents to rebut this presumption by producing cogent evidence to show that the disease was neither attributable to nor aggravated by military service. In the present case, no such evidence has been produced.

6. Placing reliance on the judgment of the Hon’ble Supreme Court in *Dharamvir Singh Vs. Union of India and others* [(2013) 7 SCC 316], learned counsel argued that where a disease manifests during service and there is no evidence of its pre-existence at the time of enrolment, a presumption arises in favour of the serviceman. The Apex Court has categorically held that the benefit of reasonable doubt must be given to the claimant and that the provisions relating to disability pension are to be interpreted in a liberal and beneficial manner.

He further relied on the judgment of the Hon'ble Supreme Court in the case of Union of India and others Vs. Rajbir Singh [(2015) 12 SCC 264], whereby the Hon'ble Court affirmed the principle of rounding off/ broad-banding of disability element even in cases of invalidment and reinforced that once disability is assessed at a particular percentage, the benefit of rounding off is to be extended in accordance with the Government policy. Learned counsel also place reliance on Madan Singh Shekhawat Vs. Union of India and others [(1999) 6 SCC 459] to contend that hyper-technical objections should not defeat legitimate claims of disabled soldiers and that beneficial provisions must receive a purposive interpretation. Reliance was additionally placed on Union of India and others Vs. Mrs. Charanjit Kaur [Mil LJ 1996 (AP) 20] and Smt. Balwant Devi Vs. Union of India and others [Mil LJ 2000 (J&K)], wherein it has been consistently held that once a disability is found to have arisen during service and there is no material to show that it is constitutional or unrelated to service conditions, the claim for disability pension ought to be allowed.

7. It was thus argued that in the present case the applicant had rendered more than thirty three years of service, including repeated tenures in field/CI Ops/high altitude areas involving considerable stress and strain. The RMB itself recorded aggravation of Primary Hypertension by military service. In the absence of any contra medical opinion and in view of the binding precedents of the Hon'ble Supreme Court and various High Courts, the rejection of the applicant's claim is arbitrary, non-speaking and contrary to the settled principles governing disability pension. Hence, the applicant is entitled to grant of disability element at 30% rounded off to 50% for life, along with consequential arrears and interest as prayed for.

8. Mr. Shailesh Sharma, learned counsel for the respondents, opposing the OA submitted that the grant of disability element of pension is governed strictly by the relevant Pension Regulations and the applicable Government policy. It was contended that mere assessment of a disability by a RMB does not *ipso facto* entitle an army personnel to disability pension unless the conditions of attributability or aggravation by military service are satisfied in terms of the statutory provisions.

It was further argued that Primary Hypertension is a common lifestyle-related disorder including hereditary predisposition, age, dietary habits and other constitutional factors. It was further argued that the onset of the disease, as is evident from the record, is within two years prior to superannuation of the applicant after rendering more than three decades of service. Therefore, the respondents contend that the disease cannot automatically be presumed to be attributable to military service merely because it manifested during service.

9. Learned counsel further submitted that the impugned order was passed after due consideration of the medical documents and in compliance with the governing provisions. It was also submitted that in respect of the disability of Primary Hypertension, there is no specific service-related incident, injury or extraordinary stressor stated to be the cause of the disability. The mere fact of service in field/CI Ops areas does not automatically establish aggravation in the absence of clear medical correlation.

10. Learned counsel further submitted that in the present case, the nature of the disease itself indicates a constitutional

and age-related origin. It was argued that the presumption cannot override medical science or the specific findings recorded by the pension sanctioning authority. With regard to rounding off, learned counsel for the respondents contended that the benefit of broad-banding is available only when disability pension itself is admissible. Since the applicant has not been found eligible for disability element under the rules, the question of rounding off does not arise. It was further submitted that the applicant was not invalidated out of service but retired on superannuation in a downgraded medical category. Learned counsel, therefore, argued that the impugned orders are reasoned, in conformity with the applicable rules and do not suffer from arbitrariness or illegality warranting interference by this Tribunal. The OA, being devoid of merit, is liable to be dismissed.

11. We have heard the learned counsel for the parties and perused the records made available to us.

12. There is no denial of the fact that the applicant commissioned in the Army on 26th August, 1989 retired on 30th June, 2022 (AN) after rendering approximately 33 years

of service. The RMB assessed the disability of Primary Hypertension at 30% for life. The RMB specifically recorded that Primary Hypertension was aggravated by military service and noted that its onset occurred while the applicant was serving in a CI Ops area at Guwahati. The law is well settled that the opinion of a duly constituted Medical Board carries significant evidentiary value and cannot be negated by administrative authorities in the absence of a contrary medical opinion. The respondents have not produced any material to show that the applicant's disease was constitutional in nature or unrelated to service conditions. Nor has the matter been referred to a higher medical authority for reconsideration.

13. In *Dharamvir Singh* (supra), the Hon'ble Supreme Court held that if no note of a disease is made at the time of entry into service and the disease manifests during service, a presumption arises in favour of the serviceman and the burden to rebut the same by cogent evidence shifts to the employer. In the present case, no such rebuttal is forthcoming. Accordingly, the finding of the RMB regarding aggravation of Primary Hypertension by military service is accepted. The rejection of the claim by the

respondents, without any contrary medical opinion, is thus arbitrary and unsustainable.

14. With regard to rounding off/broad-banding, the law on rounding off is no longer res integra. In the present case, once it is held that the disability is aggravated by military service and assessed at 30% for life, the applicant is entitled to rounding off benefits in accordance with the applicable policy and binding precedent. Accordingly, in terms of the judgment of the Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Ram Avtar (Civil Appeal No.418/2012) decided on 10th December, 2014, the disability of Primary Hypertension assessed at 30% for life has to be rounded off to 50% for life.

15. The impugned orders, without recording any reasons for disagreeing with the categorical opinion of the RMB, merely state that the disabilities do not fulfill the eligibility conditions under the existing rules. As held in *Madan Singh Shekhawat* (supra), beneficial provisions relating to disability pension must receive a liberal interpretation and hyper-technical objections ought not be taken to defeat the legitimate claims of the soldiers.

The impugned orders, therefore, suffer from arbitrariness and non-application of mind and are liable to be set aside.

16. In view of the above the OA is allowed and the impugned order dated 16th June, 2023 (Annexure A1) and subsequent rejection of the first appeal is set aside. The respondents are directed to grant disability element of pension to the applicant for his disability of Primary Hypertension assessed at 30%, to be rounded off to 50%, for life from the date of superannuation of the applicant. The respondents shall calculate and pay the arrears of disability element accordingly within a period of four months from the date of receipt of this order, failing which the arrears shall carry interest at the rate of 6% per annum from the date they became due till the date of actual payment.

17. No order as to costs.

18. Pending applications, if any, also stand closed.

Pronounced in open Court on this ^{16th} day of March, 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

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