

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

O.A. No. 88 of 2020

In the matter of:

Brig J N Pandey (Retd) ... **Applicant**
Versus
Union of India & Ors. ... **Respondents**

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM :

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

O R D E R

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) To direct the Respondents to bring all medical documents on record.***
- (b) To direct the Respondents to grant disability pension to the applicant from the date of release i.e. 01.11.2018.***
- (c) To direct the respondents to grant disability pension and broad banding of disability pension from 40% to 50% to the applicant from the date of release i.e. 01.11.2018.***
- (d) To direct the respondents to issue a corrigendum PPO pertaining to disability and***

broad banding of the disability pension from 40% to 50%.

(e) To direct the respondents to pay arrears of disability pension and broad banded disability pension along with interest @12% from the date of discharge i.e. 01.11.2018.

(f) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.”

BRIEF FACTS

2. The applicant was commissioned in the Indian Army on 24.08.1985 and retired from service on 31.10.2018 in low medical category SHAPE-2Y. The Release Medical Board (RMB), held on 19.03.2018, assessed the following disabilities: (i) Type-2 Diabetes Mellitus (E-11) assessed @ 20% for life; and (ii) Primary Hypertension (I-10.0) assessed @30% for life. The composite assessment of disabilities was determined as 40% for life. In the initial medical board dated 09.11.2015 his both disabilities were conceded as “Aggravated by Service” on account of “Onset within one year of De-Induction from HAA, Refer IHQ of MoD Letter No 16036/RMB/IMB/DGAFMS/MA (PENS) DT 05 MAY 2008”, which was approved by the competent at that time. However, at the time of release of the applicant

from service, the RMB dated 19.03.2018 conceded his both the disabilities as 'NANA'.

3. The initial claim of the applicant for grant of the disability pension was rejected and the said decision was communicated to the applicant vide letter No.52334/IC-45583/Brig/MP-6(A)/62/2018/AG/PS-4(Imp-I) dated 10.09.2018, 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 12.10.2018 against rejection of his disability claim which was adjudicated and rejected by the Appellate Committee on First Appeal (ACFA) vide letter No. 52334/IC-45583A/Brig/MP-6(AF)/22/2018/Appeal/AG/PS-4(Imp-II) dated 24.01.2019. Thereafter the applicant preferred his second appeal dated 28.02.2019 which was rejected by the Second Appeal Committee on Pension (SACP) vide letter No. B/38046A/160/2019/AG/PS-4 dated 02.07.2020. Aggrieved by this, the applicant approached this Tribunal and has filed the present OA on 08.01.2020. In the interest

of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(1) of the AFT, Act 2007.

CONTENTIONS OF THE PARTIES

4. 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 Indian Army at various places in different environmental conditions and in most difficult afloat postings for approx more than eight years in his total 33 years of service with complete dedication and thus thereby, any disability that arose during his service has to be deemed to be attributable to or aggravated by military service. It is further submitted by the learned counsel that though, the disabilities of the applicant namely (i) Type-2 Diabetes Mellitus (E-11) assessed @ 20% for life; and (ii) Primary Hypertension (I-10.0) assessed @30% for life were conceded as 'Aggravated by Military Service' by the RMB,

however, it was later conceded as NANA by the Release Medical Board dated 19.03.2018.

5. On behalf of the applicant reliance was placed on the verdicts of the Hon'ble Supreme Court in the case of **Union of India v. Ram Avtar** (CA 418/2014), **Union of India & Anr. v. Rajbir Singh** 2015(12) SCC 264, **D.S Nakara & Ors. v. Union of India** 1983 SCR (2) 165, wherein similarly situated personnel were given relief.

6. *Per contra*, the learned counsel for the respondents contended that the applicant is not entitled to the relief claimed since the RMB, being an Expert Body, found the disability as "Neither Attributable to Nor Aggravated by Military Service" on the ground that the disability of Diabetes Mellitus Type II is a metabolic disorder with a strong genetic preponderance and Primary Hypertension is an idiopathic disorder with a strong genetic preponderance and therefore his both the disabilities were conceded NANA.

7. The learned counsel for the respondents further contended that the applicant's disability does not qualify for the disability pension in view of Regulation 37, Part-I of the Pension Regulations for the Army, 2008, which provides

that the disability pension is granted to the individual released/retired/discharged from service when the disability should be either attributable to or aggravated by military service and minimum assessment thereof is mandatorily required to be 20% or more and in this case both the requirements for grant of disability element of pension is not met. Therefore, the OA deserved to be dismissed.

ANALYSIS

8. We have heard the learned counsel for the parties and have perused the record produced before us.
9. It is an undisputed fact that at the time of joining the service in August, 1985, the applicant was found medically and physically fit and the present disabilities had admittedly first occurred in Dec, 2014, i.e. after about 29 years of service.
10. In the present case, the applicant is suffering from two disabilities viz. (i) Type-II Diabetes Mellitus @ 20% (ii) Primary Hypertension @30% which were initially the conceded as "**Aggravated by Service**" by the Categorization Board dated 09.11.2015, on account of "Onset within one

year of De-Induction from HAA, Refer IHQ of MoD Letter No. 16036/RMB/IMB/DGAFMS/MA (PENS) DT 05 MAY 2008. However, later the RMB dated 19.03.2018 considered both the disabilities of the applicant as 'NANA'.

11. It is not in dispute that the present disabilities of the applicant (i) Type-II Diabetes Mellitus @ 20% and (ii) Primary Hypertension @30%, which are more than bare minimum for the grant of disability pension in terms of Regulation 37, Part-I of the Pension Regulations for the Army, 2008), and, therefore, the question which is to be considered in this case is whether the disabilities suffered by the applicant are attributable to or aggravated by military service or not.

12. The law on the issue of attributability of these disabilities is already settled by the Hon'ble Supreme Court in the case of **Dharamvir Singh Vs. Union of India [2013] 7 SCC 316]**, which has been followed in subsequent decisions of the Hon'ble Supreme Court and in a catena of orders of this Tribunal, wherein the Apex Court had considered the question with regard to grant of disability pension and after taking note of the provisions of the Pension Regulations,

Entitlement Rules for Casualty Pensionary Awards, 1982 and the General Rules of Guide to Medical Officers (Military Pensions), 2002 and Para 423 of the Regulations for the Medical Services of the Armed Forces, 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 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 guidelines laid down vide the verdict in *Dharamavir Singh (supra)* are as under:-

"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."

13. The Hon'ble Supreme Court in the case of **Union of India & Ors. Vs. Rajbir Singh [2015 (2) SCALE 371]**

decided on 13.02.2015, after taking note of its judgement in the case of **Dharamvir Singh (supra)** upheld the decision of this Tribunal granting disability pension and observed as under :

“15. Last but not the least is the fact that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability at times even before they completed their tenure in the armed forces. There may indeed be cases, where the disease was wholly unrelated to military service, but, in order that denial of disability pension can be justified on that ground, it must be affirmatively proved that the disease had nothing to do with such service.....”

14. The 'Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel 2008, which take effect from 01.01.2008 provide vide Paras 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.

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 onus to prove the entitlement would lie on the claimant.

10. Attributability:

(a) 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 while '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."

15. Thus, the ratio of the verdicts in **Dharamvir Singh Vs. Union of India & Ors. [(2013) 7 SCC 316], Sukhvinder Singh Vs. Union of India & Ors. [2014 STPL (Web) 468 SC]** and **Union of India Vs. Rajbir Singh [(2015) 12 SCC 264]**, as laid down by the Hon'ble Supreme Court are the fulcrum of these rules as well.

16. 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 favour, 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 :

(i) 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.

17. With regard to the disability of Type-II Diabetes Mellitus, it is pertinent to refer to Para 26 of the Guide to Medical Officers (Military Pensions), 2008, for assessing the attributability/aggravation of the disability, which provides as under:-

"26. **Diabetes Mellitus** This is a metabolic disease characterised by hyperglycemia due to absolute/relative deficiency of insulin and associated with long term complications called microangiopathy (retinopathy, nephropathy and neuropathy) and macroangiopathy. There are two types of Primary diabetes, Type 1 and Type 2. Type 1 diabetes results from severe and acute destruction of Beta cells of pancreas by autoimmunity brought about by various infections including viruses and other environmental toxins in the background of genetic susceptibility. Type 2 diabetes is not HLA-linked and autoimmune destruction does not play a role. Secondary diabetes can be due to drugs or due to trauma to pancreas or brain surgery or otherwise. Rarely, it can be due to diseases of pituitary, thyroid and adrenal gland. Diabetes arises in close time relationship to service out of infection, trauma, and post surgery and post drug therapy be considered attributable. Type 1 Diabetes results from acute beta cell destruction by immunological injury resulting from the interaction of

certain acute viral infections and genetic beta cell susceptibility. If such a relationship from clinical presentation is forthcoming, then Type 1 Diabetes mellitus should be made attributable to service. Type 2 diabetes is considered a life style disease. **Stress and strain, improper diet non-compliance to therapeutic measures because of service reasons, sedentary life style are the known factors which can precipitate diabetes or cause uncontrolled diabetic state.**

Type 2 Diabetes Mellitus will be conceded aggravated if onset occurs while serving in Field, CIOPS, HAA and prolonged afloat service and having been diagnosed as Type 2 diabetes mellitus who are required serve in these areas.

Diabetes secondary to chronic pancreatitis due to alcohol dependence and gestational diabetes should not be considered attributable to service.”

18. From the posting profile placed on record, it is evident that throughout his service career, the applicant was posted to many different area postings involving difficult terrain including field area. The posting profile of the applicant is reproduced to the effect:-

SNo.	UNIT	Loc	Period		P/F
			From	To	
1.	113 Fd Regt	Gwalior	24 Aug 85	28 May 87	Peace
2.	113 Fd Regt	J & K	29 May 87	31 Aug 90	Field
3.	113 Fd Regt	Nasirbad	01 Sep 90	22 Jun 91	Peace
4.	202 Sata Bty	Allahabad	23 Jun 91	24 Nov 92	Peace
5.	Arty School	Devlali	25 Nov 92	21 Dec 93	Peace
6.	871 Med Regt	Secunderabad	22 Dec 93	30 Dec 93	Peace

7.	333 Mst Gp	Secunderabad	31 Dec 93	29 May 96	Peace
8.	DSSC, Wellington	wellington	17 Jun 96	26 Apr 97	Peace
9.	HQ 107 Mtn Bde	Assam	10 Jul 97	01 Jul 99	Field
10.	333 MSI Gp	Secunderabad	02 Jul 99	25 Dec 01	Peace
11.	333 MSI Gp	OP Parakaram	26 Dec 01	09 Nov 02	Field
12.	333 MSI Gp	Secunderabad	10 Nov 02	14 Feb 03	Peace
13.	HQ SFC	New Delhi	15 Feb 03	30 Jan 05	Peace
14.	333 Mst Gp	Kamptee	31 Jan 05	06 Nov 07	Peace
15.	HQ 57 Mtn Div	Manipur	07 Nov 07	12 Jun 09	Field
16.	CDM Secunderabad	Secunderabad	22 Jun 09	23 Apr 10	Peace
17.	HQ Southern Command	Pune	27 Jul 10	22 Jul 12	Peace
18.	HQ 402(I)Arty Bde	Nimu(Leh)	09 Aug 12	11 Jul 14	Field
19.	HQ School of Arty	Devlali	25 Aug 14	28 Aug 14	Peace
20.	HQ Southern Command	Pune	29 Aug 14	24 Dec 14	Peace
21.	HQ 41 Arty Div	Pune	25 Dec 14	19 Jan 17	Peace
22.	HQ UB Area	Bareily	01 feb 17	Till dt	Peace

”

19. The onset of disability of the applicant of Type-II Diabetes Mellitus was in December 2014, when the applicant was posted at Pune (peace station), a posting which was subsequent to his

posting at Nimu (Leh) (field posting) within a span of 4 months of having been posted out from field area Nimu (Leh) (field posting).

20. From the posting profile mentioned hereinabove, it is evident that throughout his service career the applicant had undergone prolonged exposure to field and operational areas, including postings in Jammu & Kashmir, Assam, Manipur, Nimu (leh) and participation in Operation Parakaram which cannot be ignored while considering the causal connection of the disability of Diabetes Mellitus Type-II with service as the manifestation of service conditions could induce disability in a person after long and frequent spells of service in field/HAA/Active operating areas,

21. It is pertinent to mention that the onset of the disability of Diabetes Mellitus Type-II occurred in 2014 after approx 34 years of long service during which he was posted to different stations including field and peace postings having different climatic, social and environmental conditions. Hence, the accumulated stress and strain of such a long service, as a contributing factor for the onset of the disability of Diabetes Mellitus Type-II, cannot be overlooked. It is therefore

reasonable and safe to conclude that the disability of Type-II Diabetes Mellitus was due to the stress and strain of service which occurred during active service in adverse conditions.

22. With regard to the second disability of the applicant i.e. Primary Hypertension @30% for life, we may refer to Para 43 of Chapter VI of the Guide to Medical Officers (Military Pensions), 2008, reads as under:-

"43. Hypertension – The first consideration should be to determine whether the hypertension is primary or secondary. If (e.g. Nephritis), and it is unnecessary to notify hypertension separately.

As in the case of atherosclerosis, entitlement of attributability is never appropriate, but where disablement for essential hypertension appears to have arisen or become worse in service, the question whether service compulsions have caused aggravation must be considered. However, in certain cases the disease has been reported after long and frequent spells of service in field/HAA/active operational area. Such cases can be explained by variable response exhibited by different individuals to stressful situations. Primary hypertension will be considered aggravated if it occurs while serving in Field areas, HAA, CIOPS areas or prolonged afloat service.

(emphasis supplied)"

23. As per Paragraph 43 of Chapter VI of the Guide to Medical Officers (Military Pensions), 2008, it is mentioned that in certain cases the disease has been reported after long and frequent spells of service in field/HAA/active operational area

and it is evident from the posting profile of the applicant that only after four months of his posting at Nimu (Leh) (field posting) he was diagnosed with the disability of Primary Hypertension. Hence, the said disability is to be conceded 'Aggravated' in accordance with Para 43 of Chapter VI of the Guide to Medical Officers (Military Pensions), 2008, which was so also recorded in the Categorization Board Proceedings dated 09.11.2015.

24. Furthermore, the contention raised on behalf of the respondents that the onset of the disabilities had been in peace station, the said statement is unjustified as it has already been observed by this Tribunal in a catena of cases that peace stations have their own pressure of rigorous military training and associated stress and strain of the service. It may also be taken into consideration that most of the personnel of the armed forces have to work in the stressful and hostile environment, difficult weather conditions and under strict disciplinary norms over in Peace stations.

25. Moreover, there is no note made in the applicant's medical documents that he was suffering from any disease at the time of joining the service. There is no record to show that

the applicant has suffered the disability due to hereditary or unhealthy lifestyle nor is there any family history of the applicant placed on record. We are, therefore, of the considered view that in these circumstances in view of the settled law and provisions on the point of attributability/aggravation, the disability suffered by the applicant has to be held/ to be attributable to and aggravated by the military service.

26. It is also essential to observe that vide the verdict of the Hon'ble Supreme Court in Civil Appeal no. 5970/2019 titled as

Commander Rakesh Pande v. UOI & Ors., dated on 28.11.2019, wherein the decision of the AFT, PB granting disability pension to the applicant thereof who was suffering from Non-Insulin Dependent Diabetes Mellitus (NIDDM) @ 20% broad banded to 50% for life was upheld by the Hon'ble Supreme Court.

27. Furthermore, we are further fortified in our view in view of the verdict dated 27.03.2025 of the Hon'ble High Court of Delhi in W.P. (C) 3545/2025 in **Union of India & Ors. vs. Ex Sub Gavas Anil Madso** and the verdict dated 01.07.2025 of the Hon'ble High Court of Delhi in W.P.

(C) 5783/2024 in **Union of India through the Secretary Ministry Of Defence & Ors. vs. Maj Gen Rajesh Chaba (Retd.) and other connected petitions** and the verdict dated 01.07.2025 of the Hon'ble High Court in W.P. (C) 140/2024 in **Union of India & Ors. Vs. Col Balbir Singh (Retd)** which adhere to the law laid down by the Hon'ble Supreme Court in **Dharamvir Singh** (Supra).

CONCLUSION

28. In view of the aforesaid judicial pronouncements and the parameters referred to above, OA 88/2020 is allowed. The respondents are thus directed to grant disability element of pension to the applicant @ 40% for life which be rounded off to 50% for life from the date of discharge 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.

29. 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.

30. There is no order as to costs.

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

**[JUSTICE NANDITA DUBEY]
MEMBER (J)**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**

/nmk/