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

OA No. 994/2025

Col (TS) Gyanendra Singh Tewatia (Retd.) ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Mr. Indra Sen Singh, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM :
HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN CP MOHANTY, MEMBER (A)

ORDER

The applicant, by way of the present Original Application No. 994/2025, seeks grant of disability pension in respect of the disabilities, namely (i) PIVD L5–S1 and (ii) Anterior Collapse D12 Vertebra, assessed at 30% for life, which were held by the Release Medical Board to have been aggravated by military service.

2. The applicant was commissioned in the Indian Army on 11.06.1991 and retired on attaining the age of superannuation on 31.10.2022. At the time of release, the Release Medical Board assessed the aforesaid disabilities at 30% for life and opined that the same were aggravated by military service. However, the competent administrative authority did not concur with the opinion of the Medical Board and held that the disabilities were neither attributable to nor aggravated by military service. Consequently, the initial claim for grant of disability

pension was rejected vide letter dated 16.11.2022. The first and second statutory appeals preferred by the applicant were also rejected vide communications dated 06.06.2023 and 30.12.2024 respectively. Aggrieved by the said decisions, the applicant has approached this Tribunal contending, inter alia, that the administrative authorities could not have lawfully overruled the opinion of the duly constituted Medical Board.

3. Per contra, the respondents have placed reliance upon Rule 12 of the Entitlement Rules for Casualty Pensionary Awards, 2008, and have contended that the mere existence of a disability at the time of release from service does not ipso facto entitle an individual to disability pension. It has been submitted that, in terms of the said Rule, the claimant is required to establish a causal connection between the disability and military service, and that the competent authority is vested with the jurisdiction to examine the medical and service records in order to determine whether such attributability or aggravation is made out in accordance with the prescribed parameters :-

> *"12. Competent Authorities:*
>
> *(a) Attributability/Aggravation:*
>
> > *(i) Injury Cases: Decision regarding attributability/aggravation in respect of injury: cases in invalidment/retirement or discharge would be taken by the Service HQrs. in case of officers and OIC Records in case of PBOR, for the purpose of casualty pensionary awards.*
> >
> > *(ii) Disease Cases: The decision regarding attributability/aggravation in respect of disease cases shall be taken by the Service HQrs in case of officers and OIC Records in case of PBOR on the basis of the findings of the*

RMB/IMB ass approved by the next higher medical authority which would be treated as final and for life."

4. We have heard the learned counsel appearing for the applicant and the learned counsel representing the respondents at length. We have also carefully perused the pleadings on record, the documents annexed thereto, as well as the relevant statutory provisions and Regulations governing the field. Upon consideration of the matter, we deem it appropriate to advert to the detailed justification recorded by the duly constituted Release Medical Board in Part VII of its proceedings, captioned "Opinion of the Medical Board," wherein the disabilities in question were opined to have been aggravated by military service. The said opinion, being germane to the controversy involved, is reproduced hereinbelow for ready reference.:

> *"Onset May 2008 while serving in peace stn (Kota, Rajasthan) with presenting history of Low Backache. H/o fall from monkey rope on 16 May 2008 (as per first opinion), however, trivial nature of injury, offr did not hospitalized and no injury report has been initiated. Rigours of training of infantry officer and uncongenial climate (Col, damp) and hilly terrain can adversely affect the course of disease, hence aggravation conceded due to stress and strain of mil service in terms of para 51 of Ch VI of GMO (MP)-2008."*

5. Upon a careful perusal of the aforesaid justification recorded by the Release Medical Board, it becomes evident that the Board has furnished a detailed, reasoned and unequivocal opinion in support of its conclusion that the disabilities in question were aggravated by military service. The findings are neither cryptic nor perfunctory, but are supported by medical rationale consistent with the governing provisions. We have also taken note of Report dated 18.05.2009 on

"Accidental & self Inflicted Injuries Officers/JCOs/OR/NsCE" annexed as A-2 which further fortifies our conclusion that the injury was sustained during the course of Battle Physical Efficiency Test (BPET) while the applicant was doing monkey rope and therefore the same is attributable to military service. That clearly establishes a casual connection which has been the reason stated by the administrative authority to deny the benefit of Disability Pension to the applicant. Furthermore, an examination of the applicant's posting profile reveals that subsequent to the initial onset of the disability in the year 2008, the applicant was posted to Field Areas on two distinct occasions, namely from 18.09.2008 to 25.06.2011 and from 20.04.2018 to 22.08.2020. Such tenures in Field Areas, after the manifestation of the disability, prima facie lend support to the conclusion of aggravation in terms of the Guide to Medical Officers, 2008 (GMO 2008), thereby reinforcing the opinion rendered by the Medical Board.

6. In light of the foregoing, we are of the considered view that the administrative decision of the respondents in denying the disability element of pension to the applicant is not sustainable in law. The same runs contrary to the principles laid down by the Hon'ble Supreme Court in **Ex Sapper Mohinder Singh Vs Union of India (Civil Appeal 164/993)** and **Dharamvir Singh Vs Union of India [(2013)7SCC316]**, wherein it has been authoritatively held that the opinion of a duly constituted Medical Board cannot be brushed aside lightly by the administrative

authorities and that, in the absence of cogent reasons supported by medical evidence, such opinion ought to be given due primacy. We also take note of the letter issued by IHQ (Army) dated 25.04.2011, the relevant extract of which is reproduced hereinbelow for ready reference:

> *"2 These alterations in the findings of IMB/RMB by MAP (PCDA(P)) without having physically examined the individual, do not stand to the scrutiny of law and in numerous judgments, Hon'ble Supreme Court has ruled that the medical Board which has physically examined should be given due weightage, value and credence.*
>
> ....
>
> *4. All Command HQs are requested to instruct all Record Offices under their command to withdraw unconditionally from such cases, notwithstanding the stage they may have reached and such file be processed for sanction."*

7. It is well settled through a catena of decisions, including ***Ex Cfn Sugna Ram Ranoliya*** Vs ***UoI [W.P.(c) No 3699/2004] & Rajendra Singh*** Vs ***UoI [W.P.(c) No 13733/2005]*** decided by the Hon,ble Delhi High Court, that due primacy and evidentiary value must be accorded to the proceedings and opinion of a duly constituted Medical Board. This Tribunal has consistently held that neither the PCDA nor any administrative authority can substitute its own assessment in place of a medical opinion, unless the same is rebutted by another competent and reasoned medical opinion. In the present case, no such contrary medical opinion has been placed on record by the respondents to dislodge the findings of the Release Medical Board. In the absence of any cogent material to the contrary, we find no justifiable basis for the respondents to deny the disability element of pension to the applicant, particularly

when the Release Medical Board had duly assessed and quantified the disability at 40% for life.

8. Once we have come to the conclusion that when the applicant superannuated on 31st October, 2022 and the RMB which assessed the disabilities @ 00% had given an opinion that the disability is aggravated by military service, in view of the settled principles of law as discussed in Para 6 and 7 above, the administrative authorities could not have interfered with the findings of the medical board and therefore in view of the law laid down in the case of ***Union of India and Ors.*** Vs. ***Ram Avtar*** (2014) SCC Online 1761, the applicant is entitled to broad banding of the disability.

9. Further, in view of the law laid down by the Hon'ble Supreme Court in ***Union of India*** Vs. ***Ram Avtar***, the applicant would be entitled to the benefit of broad-banding of the assessed disability. In terms of the Government of India Notification dated 31.01.2001, where the disability is assessed between 20% and 50%, the same is liable to be rounded off to 50%. Accordingly, the disability element assessed at 30% is required to be broad-banded to 50%.

10. In the result, the Original Application deserves to be allowed. The respondents are directed to grant the disability element of pension to the applicant at 30% and to broad-band the same to 50% with effect from the date of his retirement, i.e., 31.10.2022. The applicant shall also be entitled to arrears from the date of retirement. In this regard,

reliance is placed upon the judgment of the Hon'ble Supreme Court in *Union of India* Vs *Sgt Girish Kumar*, wherein it has been held that once entitlement is established, arrears cannot ordinarily be curtailed in the absence of any statutory embargo. In view of the settled legal position, no restriction on arrears is warranted in the present case.

11. Further arguments were advanced before us by relying upon the law laid down in the case of ***Union of India through its Secretary and Ors.*** Vs ***Sgt Girish Kumar and Ors.*** **(CA 6820-24 of 2018)** decided by the Hon'ble Supreme Court very recently on 12th February, 2026 to say that arrears should be paid to the applicant without any restriction in its payment. However, respondents argue that the law laid down in the case of Sgt Girish Kumar (Supra) will not apply in this case, on the contrary the law laid down in the case of ***Union of India and Ors.*** Vs. ***Tarsem Singh*** (2008) 8 SCC 648 would apply. Respondents submit that in view of the law laid down in the case of ***Tarsem Singh*** (Supra) payment of arrears to the applicant should be restricted.

12. We have considered the submissions made by learned counsel for the parties and we are of the considered view that in the facts and circumstances of the present case as the applicant had retired only on 31st October, 2022 and the disability benefit was denied to him and after his retirement, he has come within the period of 3 years by filing this application on 3rd April, 2025, therefore, there cannot be any restriction on payment of arrears to him. However, the issue with regard

to applicability of the judgment in the case of ***Sgt Girish Kumar*** (Supra) in the matter of restriction of arrears can be considered in an appropriate case as and when required.

13. The respondents shall comply with the aforesaid directions within a period of four months from the date of receipt of a certified copy of this order, failing which the entire arrears shall carry interest at the rate of 8% per annum from the date they became due till the date of actual payment.

14. No order as to costs.

15. Pending miscellaneous application(s), if any, are disposed of.

Pronounced in the open Court on this 27th day of March, 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

Akc