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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 30th October, 2026*

\# **CNR No. DLHC010326062026**

\+ W.P.(C) 10120/2026

PAWAN KUMAR GUPTA .....Petitioner

Through: Mr. Abhay Kumar Bhargava and Mr. Ajinkya Dhalwade, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Ms. Avshreya Pratap Singh Rudy, CGSC with Ms. Ushal Jamnal, Ms. Nyasa Sharma, Mr. Abhinav Mall and Ms. Nishtha Dhall, Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH
HON'BLE MR. JUSTICE GURVINDER PAL SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

CM APPL. 47026/2026 *(seeking permission to file lengthy synopsis and list of dates)*

1. This application is filed on behalf of the Petitioner seeking permission to file lengthy synopsis and list of dates.

2. For the reasons stated in the application, the same is allowed. List of dates and synopsis are taken on record.

3. Application stands disposed of

W.P.(C) 10120/2026

4. This writ petition is filed on behalf of the Petitioner under Article 226

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of the Constitution of India seeking direction to the Respondents to grant *ex-gratia* compensation to the Petitioner in terms of Office Memorandums (OMs) dated 21.04.2011 and 07.06.2017, issued by Respondent No. 1 along with interest @ 9% p.a. from 20.03.2023, when Petitioner was invalidated from service.

5. Case of the Petitioner as pleaded in the writ petition is that Petitioner was appointed as Constable (GD) in BSF after being declared completely medically fit in all respects upon clearing the Detailed Medical Examination at the time of enrolment with no pre-existing disease or disability. During service, Petitioner was diagnosed with 'Paranoid Schizophrenia Disease' by the Medical Board held on 21.12.2022, duly approved by IG (Medical) and the disability was assessed at 45%. Resultantly, Petitioner was placed in Permanent Low Medical Category S5H1A1P1E1 and declared unfit for further service in BSF. On 02.02.2023, show cause notice was issued to the Petitioner under Rule 25 of BSF Rules, 1969 proposing to invalidate him from service and calling upon him to represent within 15 days. By order dated 17.03.2023, Petitioner was invalidated from service w.e.f. 20.03.2023 and while invalid pension was sanctioned, disability pension was not granted. In the present petition, Petitioner seeks *ex-gratia* compensation payable under OMs dated 21.04.2011 and 07.06.2017.

6. Learned counsel for the Petitioner submits that Petitioner is entitled to *ex-gratia* compensation in light of OMs dated 21.04.2011 and 07.06.2017 issued by Respondent No.1 as he was invalidated from service owing to the disability contracted during BSF service. Though it is true that Medical Board in the instant case has opined that the disability was not related to military service, however, it cannot be overlooked that Petitioner was

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medically fit at the time of enrolment and there was no pre-existing illness. The disability developed during the course of service and this formed the basis of Petitioner being declared unfit and his invalidation from service. Petitioner performed his duties without any complaint and in the absence of any note or record at the time of his enrolment that Petitioner was not in sound medical health, any deterioration in health or any illness that was contracted during service, must be presumed to have arisen due to service. It is urged that *albeit* the Medical Board held on 21.12.2022 opined that the disability was neither attributable to nor aggravated by service, it was held that the disability was contracted in service. The case of the Petitioner is covered by the judgment of the Supreme Court ***Dharamvir Singh v. Union of India and Others, (2013) 7 SCC 316,*** where it was held that a member of the Force is to be presumed in sound physical and mental condition upon entering service if there was no note or record at the time of entrance to show otherwise. 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 and the onus of proof is not on the employee but on the employer to establish that deterioration in health was not due to service conditions. If medical opinion holds that the disease has not arisen in service or aggravated by it, it is required to state the reasons. Since Petitioner was medically fit at the time of enrolment, his disability 'Paranoid Schizophrenia Disease' shall be presumed to be aggravated, even if not attributable and therefore, case of the Petitioner is also covered by the judgment in ***Kalu Ram v. Union of India and Others, 2025 SCC OnLine Del 9748*** for grant of *ex-gratia* compensation.

7. Learned counsel for the Respondents submits that Petitioner is not

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entitled to *ex-gratia* compensation since the Medical Board held on 21.12.2022 opined that the disability incurred by the Petitioner being 'Paranoid Schizophrenia Disease' was neither attributable to nor aggravated by service in BSF and primacy has to be given to the findings and opinion of the Medical Boards. It is argued that in the absence of the disability being attributable to or aggravated by service, *ex-gratia* compensation cannot be granted under OM dated 21.04.2011, as this is the pre-condition.

8. We have heard counsels for the parties and examined their submissions.

9. Petitioner was enrolled in BSF in 2007 after being declared completely medically fit in all respects and clearing the stringent medical examination at the time of enrolment and there was no note in the record that Petitioner suffered from any pre-existing disease or disability. Admittedly, the Medical Board assessed the Petitioner as suffering from 'Paranoid Schizophrenia Disease' and recommended invalidation from service. The disability was assessed at 45% and basis the recommendation, Petitioner was invalidated from service vide order dated 17.03.2023 w.e.f. 20.03.2023 with permissible pensionary benefits but neither disability pension nor *ex-gratia* compensation were granted to him and this decision was based on the ground that disability incurred by the Petitioner was neither attributable to nor aggravated by service conditions, as opined by the Medical Board.

10. The question for consideration before this Court is whether in the absence of a finding by the Medical Board that the disability of the Petitioner was attributable or aggravated due to BSF service, Petitioner can be granted *ex-gratia* compensation. There is no doubt that OM dated

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21.04.2011 provides that CAPFs personnel who are disabled in the performance of their *bona fide* official duties under various circumstances and are boarded out from service on account of disability attributable to or aggravated in service, shall be paid *ex-gratia* compensation amounting to Rs. 9 Lacs for 100% disability and for cases with lesser disability, the amount of compensation will be reduced in proportion to the degree of disability, as mentioned therein. By OM dated 07.06.2017, the amount of *ex-gratia* compensation was revised. Therefore, attributability or aggravation by service conditions, is a pre-condition for grant of *ex-gratia* compensation when a member of the force incurs a disability, which leads to his medical invalidation in service.

11. In our view, Petitioner cannot be denied *ex-gratia* compensation and we say so for the reason that it is no longer *res integra* that a member of the Force 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, which establishes otherwise. In the eventuality of his being discharged from service subsequently on medical ground, any deterioration in his health is to be presumed due to service. The Supreme Court in ***Union of India and Others v. Col. NC Isaac (Retd.)***, ***2026 SCC OnLine SC 1895,*** dealing with Rule 5 read with Rule 14(b) of the Entitlement Rules for Casualty Pensionary Awards, 1982, *albeit* Rule 5 of Entitlement Rules, 2008 withdraws this presumption by adding a casual connection requirement, held that mere addition of casual requirement and removal of presumption that when a member joins service healthy and leaves with a disability, it ought to be attributable to the military service, does not, by itself, change the core scheme of Entitlement Rules, 2008, because the other beneficial provisions

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broadly remain untouched.

12. Reading of the aforesaid judgment as also the earlier judgment in ***Dharamvir (supra),*** leaves no doubt that it is now well settled that if an individual enters the military service with no note in the record of any pre-existing illness or disease, it shall be presumed that he was in sound physical and mental condition upon entering service and any subsequent discharge/invalidation from service on medical ground(s), owing to deterioration of health shall be presumed to be due to service. The onus of proof will be on the employer to show that the disability was not due to service. In the present case, there is no record that Petitioner was suffering from any disability when he was enrolled in BSF in 2007. It was on 21.12.2022 that the Medical Board diagnosed that Petitioner was suffering from 'Paranoid Schizophrenia Disease' and recommended his invalidation. Therefore, applying the aforesaid judgments and in the absence of the Respondents discharging the onus of showing that the disability was neither attributable to nor aggravated by BSF service, presumption will be that the disability was aggravated, even if not attributable to service. It may also be noted that the Medical Board had opined that the disability was contracted in service and therefore, to this extent case of the Petitioner is also covered by the judgment of this Court in ***Shatrughana Pingua v. Union of India & Others, 2025 SCC OnLine Del 9975,*** where the Court held that so long as the disability was contracted in service and was owing to circumstances beyond the control of the individual and *sans* evidence to the contrary, the law laid down in ***Dharamvir (supra)*** will apply. A mere opinion of the Medical Board that disability is not attributable to service without identifying another attributable cause for the ailment, will be insufficient.

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Therefore, in our view, the pre-condition in OM dated 21.04.2011 that Petitioner ought to have been boarded out of service on account of disability attributable to or aggravated by service, stands satisfied in the present case. For ready reference opinion of the Medical Board held on 21.12.2022 is as follows:-

> *"**PART-II OF MEDICAL BOARD PROCEEDINGS***
>
> *No. **072541267** Rank **CT/GD** Name **Pawan Kumar Gupta** of **FTR HQ BSF SB***
>
> *1. Findings of the Board in brief (if different from the findings mentioned in part -1): NIL*
>
> *2. Opinion of the board:-*
>
> *The Board having examined No. **072541267** Rank **CT/GD** Name **Pawan Kumar Gupta** of **FTR HQ BSF** is of the opinion that he is suffering from **"**Paranoid Schizophrenia Disease**"** and is considered UNFIT fXor further service in BSF.*

3.	Was the disability contracted in service? **Yes**	4.	Was it contracted in circumstances over which he had no control? **Yes,**
5.	Is it directly attributable to conditions of service? **No**	6.	If so, by what specific condition? **NA**
7.	If not directly attributable to service, was it aggravated thereby and if so, by what specific conditions? **Yes, due to stress and strain**	8.	Medical category recommended **S5H1A1P1E1**
9.	Percentage of disability **45% (FORTY FIVE PERCENT) disability by Psychiatrist as per IDEAS scale**	10.	Period for which the above medical category recommended. **Permanent**
11.	Further treatment / Investigations recommended. **As advised by Specialist**	12.	Next Board due on **NA**
13.	Employability restrictions. **Unfit for further service in BSF**		

13. Ministry of Home Affairs, Government of India issued OM dated 21.04.2011 which stipulated that CAPFs personnel, who are disabled in the performance of their *bona fide* official duties under various circumstances and are boarded out from service on account of disability attributable to or aggravated by service, shall be paid *ex-gratia* compensation amounting to Rs.9 lakhs for 100% disability and for cases with lesser percentage, the

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amount may be reduced in proportion to the degree of disability. By OM dated 07.06.2017, the amount of compensation of Rs. 9 lakhs was revised to Rs.20 lakhs with effect from 01.01.2016 for 100% disability on the basis of 7th CPC recommendations and for cases for lesser disability, the amount of compensation was reduced in proportion to the degree of disability. In ***Kalu Ram (supra),*** Petitioner was found to be suffering from Severe Depressive Disorder with Psychotic Symptoms and the disability was assessed at 40%. Court granted *ex-gratia* compensation to the Petitioner relying on the two OMs. In this context, we may allude to the judgment of another Division Bench in ***Hari Prakash v. Union of India and Others, 2026 SCC OnLine Del 2256.*** We may also note that in ***Union of India & Another v Rajbir Singh, 2015 SCC OnLine SC 119*** and several judgments of this Court, including in ***Roshan Lal v. Union of India and Others, 2022 SCC OnLine Del 4867,*** 'Schizophrenic Disorder' has been held attributable to military service.

14. Accordingly, we allow this writ petition, directing Respondents No. 2 and 3 to grant *ex-gratia* compensation to the Petitioner in terms of OMs dated 21.04.2011 and 07.06.2017 within eight weeks from today, failing which the arrears shall carry interest @ 12% p.a. from the date of Petitioner's invalidation from service till actual payment.

15. Writ petition stands disposed of.

JYOTI SINGH, J

GURVINDER PAL SINGH, J

OCTOBER 30, 2026/AK

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