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

% *Date of Decision: 15th October, 2026*

\# **CNR No. DLHC010192282025**

\+ W.P.(C) 4446/2025

KALU HOWLADAR .....Petitioner

Through: Ms. Saahila Lamba, Advocate

versus

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

Through: Mr. Srivats Kushal, SPC

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

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking a writ of mandamus directing the Respondents to grant disability pension to the Petitioner along with other benefits as detailed in the petition, including *ex-gratia* compensation.

2. As pleaded in the petition, Petitioner was appointed in BSF in 2008 as Constable (GD). In 2012, he started suffering from sleeplessness, palpitation and headache and was examined by Chief Medical Officer (SG) of Sector Hospital Kishanganj, who referred him to Psychiatry Department of MGM Medical College and Lions Seva Kendra Hospital, where he was diagnosed as a case of 'mixed depression with anxiety disorder' and was advised anti-psychiatric drug and light duty without arms. After Petitioner was examined at different hospitals, he was placed in Low Medical Category

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(LMC) S3 (T-12) H1A1P1E1 on 21.11.2013, owing to 'Mixed Depression with Anxiety Disorder' and 'Phobic Disorder'. Petitioner continued the treatment till September, 2017 and on 22.04.2019, Suitability Certificate was issued by Commandant (Medical), FTR HQ SB BSF, recommending that he could be suitably employed in another appointment, as per his medical category/illness.

3. It is stated that on 20.09.2021, Medical Board was convened to assess the Petitioner and he was diagnosed with 'Bipolar Mood Disorder' and the disability was assessed at 70% permanent *albeit* the Board opined that the disability was neither attributable to nor aggravated by service. Basis this opinion, Petitioner was discharged from service w.e.f. 30.11.2021 on ground of medical unfitness but was denied disability pension and other benefits such as benefits under Golden Jubilee Seema Prahari Kalyan Kawach and SBI Central Armed Police Salary Package as also *ex-gratia* compensation.

4. Learned counsel for the Petitioner submits that Petitioner was completely physically fit and not suffering from any disease/disability when he was enrolled in BSF in 2008 and in all the annual medical examinations conducted prior to 2012, Petitioner was found in SHAPE-1. This being the position, the disability of 'Bipolar Mood Disorder' suffered by the Petitioner during his service with BSF shall be presumed to be attributable to service conditions and to buttress this plea, counsel places reliance on the judgment of the Supreme Court in ***Dharamvir Singh v. Union of India*, *2013 SCC OnLine SC 538.***

5. It is further urged that Rule 9(1) of Central Civil Services (Extraordinary Pension) Rules, 1939 (EOP Rules), provides that when disablement of Government servant is conceded as due to Government

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service, he shall be awarded disability pension. An added factor that the Medical Board itself opined that the disability was contracted by the Petitioner in service and in circumstances over which Petitioner had no control, is pleaded in favour of the Petitioner and to support this plea, reliance is placed on the judgment in ***Shatrughana Pingua v. Union of India and Others, 2025 SCC OnLine Del 9975.***

6. Arguing for the Respondents, learned SPC submits that while facts are not in dispute, however, the disease 'Bipolar Mood Disorder' is not covered in Schedule 1-A of EOP Rules and moreover, when the Medical Board has opined that the disability is neither attributable to nor aggravated by service and findings and opinion of the Medical Board have to be given primacy and cannot be substituted by the Courts, the claim of the Petitioner for disability pension is misplaced.

7. Heard learned counsels for the parties and examined their submissions.

8. Parties are not at variance that when the Petitioner was enrolled in BSF in 2008, he was not suffering from any disease or disability and was completely medically fit. The disability 'Bipolar Mood Disorder' was incurred by the Petitioner during BSF service. The contention of the Respondents that since the Medical Board opined that the said disability was neither attributable to nor aggravated due to service and/or the said disease is not part of Schedule 1-A of the EOP Rules, cannot be accepted in light of the wealth of judicial precedent that a member of 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 his entrance to the contrary and in the event of his subsequently being discharged from service on medical grounds, any

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deterioration in health is to be presumed due to service as also that the onus of proof is not on the claimant but on the employer, to show that disability is neither attributable nor aggravated by service conditions. In this context, we may first allude to a passage from the judgment in ***Dharamvir Singh (supra),*** as follows:-

> *"**29.** A conjoint reading of various provisions, reproduced above, makes it clear that:*
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> ***29.1.** Disability pension to be granted to an individual who is invalided 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 to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).*
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> ***29.2.** 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 read with Rule 14(b)].*
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> ***29.3.** The 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).*
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> ***29.4.** 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)].*
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> ***29.5.** 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 [Rule 14(b)].*
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> ***29.6.** 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 [Rule 14(b)]; and*
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> ***29.7.** It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military*

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Pensions), 2002 — "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."

9. In ***Union of India and Another v. Rajbir Singh, (2015) 12 SCC 264,*** the Supreme Court reiterated the legal position and held that the essence of Pension Regulations, Entitlement Rules and Guidelines to Medical Officers is that member of the Armed Force is presumed to be in sound physical and mental condition at the time of his entering into service if there is no note or record to the contrary at the time of such entry and in the event of his subsequent discharge on medical ground, any deterioration in health is to be presumed to be due to military service. This necessarily implies that no sooner a member of the Force is discharged on medical ground his entitlement to claim disability pension will arise unless the employer is in a position to rebut the presumption that the disability was neither attributable to nor aggravated by the military service and that this position is reinforced by Rule 14(b) of Entitlement Rules 1982. Relevant passages from the judgment are as follows:-

> *"**14.** The legal position as stated in Dharamvir Singh case [Dharamvir Singh v. Union of India, (2013) 7 SCC 316 : (2013) 2 SCC (L&S) 706] is, in our opinion, in tune with the Pension Regulations, the Entitlement Rules and the Guidelines issued to the Medical Officers. The essence of the rules, as seen earlier, is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into service if there is no note or record to the contrary made at the time of such entry. More importantly, in the event of his subsequent discharge from service on medical ground, any deterioration in his health is presumed to be due to military service. This necessarily implies that no sooner a member of the force is discharged on medical ground his entitlement to claim disability pension will arise unless of course the employer is in a position to rebut the presumption that the disability which he suffered was neither attributable to nor aggravated by military service.*
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> ***15.** From Rule 14(b) of the Entitlement Rules it is further clear that if the medical opinion were to hold that the disease suffered by the member of the armed forces could not have been detected prior to acceptance for service, the Medical Board must state the reasons for saying so. Last but*

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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. The burden to establish such a disconnect would lie heavily upon the employer for otherwise the rules raise a presumption that the deterioration in the health of the member of the service is on account of military service or aggravated by it. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that he was upon proper physical and other tests found fit to serve in the army should rise as indeed the rules do provide for a presumption that he was disease-free at the time of his entry into service. That presumption continues till it is proved by the employer that the disease was neither attributable to nor aggravated by military service. For the employer to say so, the least that is required is a statement of reasons supporting that view. That we feel is the true essence of the rules which ought to be kept in view all the time while dealing with cases of disability pension.

16. *Applying the above parameters to the cases at hand, we are of the view that each one of the respondents having been discharged from service on account of medical disease/disability, the disability must be presumed to have been arisen in the course of service which must, in the absence of any reason recorded by the Medical Board, be presumed to have been attributable to or aggravated by military service. There is admittedly neither any note in the service records of the respondents at the time of their entry into service nor have any reasons been recorded by the Medical Board to suggest that the disease which the member concerned was found to be suffering from could not have been detected at the time of his entry into service. The initial presumption that the respondents were all physically fit and free from any disease and in sound physical and mental condition at the time of their entry into service thus remains unrebutted. Since the disability has in each case been assessed at more than 20%, their claim to disability pension could not have been repudiated by the appellants."*

10. Be it noted that in ***Rajbir Singh (Supra),*** the Supreme Court was dealing with several appeals instituted by Union of India against orders of the Tribunal concerning different diseases/disabilities and in one of appeals, Respondent was suffering from 'Bipolar Mood Disorders', as is the case

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here and the Supreme Court held that Respondents having been discharged from service on account of medical disease/disability, the disability must be presumed to have arisen in course of service and attributable to or aggravated by military service, in the absence of any reason recorded by the Medical Board demonstrating to the contrary. *Sans* any note in the service records of the Respondents at the time of entry of any pre-existing disease/illness/disability or reasons by the Medical Board to suggest that the disability could not have been detected at the time of entry, the disability will be presumed to be caused due to service conditions. Following these judgements, this Court has passed several judgements, allowing claims of disability pension but in order to avoid prolixity, we may refer to the judgment in ***Union of India and Others v. Ex Sub Gawas Anil Madso, 2025 SCC OnLine Del 2018,*** which has been upheld by the Supreme Court as also specifically the judgments in ***Pramod Kumar v. Union of India & Ors., 2025 SCC OnLine Del 9306; Manvir Singh v. Union of India and Others, 2025 SCC OnLine Del 4542; and Union of India and Others v. Col. Mukesh Kumar Khattar (Retd.), 2025 SCC OnLine Del 5162,*** where the disability was 'Bipolar Mood Disorder', as in this case.

11. Learned counsel for the Petitioner is also right in her submission that the Medical Board held on 07.10.2015 found that the disability was contracted in service and in circumstances over which Petitioner had no control and to this extent, case of the Petitioner is covered by the judgment of this Court in ***Shatrughana Pingua (supra),*** wherein it was held that where the disability is admitted to have been contracted in service, it is not necessary to enter into whether it had any connection with the service, in light of law laid down in ***Dharamvir Singh (supra),*** unless the Respondents

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discharge the onus of showing that the disability was neither attributable to nor aggravated due to service conditions. It was observed that a mere opinion by the Board that disability is not attributable to service, in the absence of any other attributable factor being identified, is insufficient.

12. In light of the aforesaid judgments and finding of the Medical Board itself that the disability of 'Bipolar Mood Disorder' is contracted in service, the petitioner deserves to succeed. Accordingly, this writ petition is allowed, directing the Respondents to grant disability pension to the Petitioner by taking the disability at 70% for life from the date the Petitioner was invalidated out of service. Arrears shall be paid within three months from today and in the absence of payment, the amount shall carry interest @ 6% p.a. till the actual date of payment. Insofar as the other reliefs claimed in the petition are concerned, it is left open to the Petitioner to make representation to the Respondents within one month from today and as and when the representation is received, the same shall be decided within six weeks, in accordance with law. Petitioner may take recourse to legal remedies if aggrieved by the decision.

13. Petition is disposed of in the aforesaid term.

JYOTI SINGH, J

GURVINDER PAL SINGH, J

OCTOBER 15, 2026/HS

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