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

% *Date of Decision:02nd November, 2026*

\# **CNR No. DLHC010392012026**

\+ W.P.(C) 12184/2026 and CM APPL. 56490/2026

UNION OF INDIA AND ORS .....Petitioner

Through: Ms. Tanvi Nigam, SPC with Mr. Divyansh Nigam, Advocate and Major Anish Muralidhar.

versus

COL. MOHIT NASA .....Respondent

Through: Mr. Mohan Kumar, Ms. Neetu Singh, Ms. Vishesh Tyagi and Ms. Ishika, Advocates.

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

JUDGEMENT

JYOTI SINGH, J. (ORAL)

CM APPL. 56491/2026

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 12184/2026 and CM APPL. 56490/2026

3. This writ petition is filed on behalf of Union of India challenging the impugned judgment dated 04.02.2026 passed by learned Armed Forces Tribunal, Principal Bench (Tribunal) in OA 1075/2023 in favour of the Respondent granting disability element of pension for disability 'Primary

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Hypertension' @ 30% for life, rounded off to 50%, w.e.f. the date of discharge.

4. To the extent relevant, case of the Respondent is that he was commissioned in the Army on 16.12.1989 and discharged from service on 28.02.2023. The Release Medical Board (RMB) held on 31.08.2022 opined that Respondent was fit to be released from service in Low Medical Category S1H1A1P2(P)E1 for disabilities: (i) Beta Thalassemia @ 10% for life; (ii) Primary Hypertension @ 30% for life; and (iii) Pre-diabetes @ 15% for life and composite assessment was @ 46.45% for life, while the net qualifying element for disability was recorded as 'nil for life' as disability was treated neither attributable to nor aggravated by military service.

5. The claim of the Respondent was rejected by the Competent Authority and decision was communicated vide letter dated 16.11.2022, against which he preferred an appeal before the Appellate Committee for First Appeals, which was rejected and decision was communicated vide letter dated 26.04.2023 and the second appeal dated 08.05.2023 was pending, when the OA was filed.

6. By the impugned judgment, Tribunal allowed the OA and directed Petitioners herein to grant disability pension for 'Primary Hypertension' @ 30% for life with rounding off to 50% for life since Respondent had confined the relief to 'Primary Hypertension'. Tribunal observed that the disability had its onset in December, 2020, which was after more than 31 years of service in the Army and having so noted, Tribunal relied on the judgment of the Supreme Court in ***Dharamvir Singh v. Union of India and Others, (2013) 7 SCC 316*** with regard to the presumption in terms of Entitlement Rules for Casualty Pensionary Awards, 1982 (Entitlement Rules

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1982) as also Rules 6, 7, 10 and 11 of Entitlement Rules, 2008 dealing with casual connection, onus of proof and attributability/aggravation as also Regulation 423 of Regulations for the Medical Services of the Armed Forces, 2010 (Regulations 2010) and more particularly, Para 43 of Chapter VI of Guide to Medical Officers (Military Pension), 2002, as amended in 2008, pertaining to hypertension and concluded that since there was no note in Respondent's medical documents, when he joined service, the disability will be presumed to be attributable to and aggravated by military service. Tribunal also noted that there was no record to show that the disability was hereditary or owing to unhealthy lifestyle or any family history of the Respondent. Relaince was also placed on the judgment of this Court in ***Union of India and Others v. Ex Sub Gawas Anil Madso, 2025 SCC OnLine Del 2018.*** Significantly, Tribunal observed that Respondent's posting to field areas and CI areas between 1990-1993 and 1998-2001 as also from 2012-2013 could not be ignored, while it was true that Respondent was posted in peace station at the time of onset of disability and thus the accumulated stress and strain of 31 long years of service was a contributing factor for the onset of disability. Challenging this judgment, Union of India is before us.

7. Learned counsel for the Petitioners submits that the impugned judgment suffers from legal infirmities, being contrary to statutory framework governing disability pension as also the judgment of the Supreme Court in ***Union of India and Ors. v. Ex. Sep. R. Munusami, 2022 SCC OnLine SC 892.*** It is also argued that the judgment overlooks the settled position of law that opinion of the Medical Board that the disability is neither attributable to nor aggravated by military service, must be given

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primacy in the absence of perversity, *mala fides* or cogent medical evidence to the contrary. Tribunal has also erroneously premised its decision on the fact that the disease manifested during military service coupled with Respondent's long tenure and nature of postings, inasmuch as for grant of disability pension, it is imperative that a casual nexus must be shown between the disability and military service by virtue of Rules 5, 6, 7, 10 and 11 of Entitlement Rules, 2008.

8. Counsel for the Respondent, on the other hand, defends the impugned judgment and submits that when the Respondent joined service in 1989, he was declared medically fit and there was no note of any pre-existing disability in his medical record. The disability of 'Primary Hypertension' was a result of Respondent's postings at various stations, where he was subjected to onerous duties as also adverse weather and climatic conditions and the stress and strains of the duties performed in areas of Arunachal Pradesh, Nagaland, Assam etc. was a contributory factor. It is no longer *res integra* that in such circumstances presumption is raised that the disability is attributable to service, unless the employer discharges the onus of proving that the military service had no connection with the disability incurred while in service and Medical Board gives cogent reasons and evidence to support this plea. Reliance is placed on the judgment in ***Dharamvir Singh (supra)*** as also the Division Bench of this Court in ***Anil Madso (supra).***

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

10. Broadly understood case of the Petitioners is that the impugned judgment overlooks Entitlement Rules, 2008, which mandate the existence of casual connection between the disability incurred by the Respondent and

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condition for military service as also the fact that Respondent was posted in peace area at the time of onset of the disability and that primacy must be accorded to the opinion of the Medical Board, comprising of experts in the field.

11. Indisputably, Respondent was commissioned in the Army on 16.12.1989 and was diagnosed with three disabilities, as aforementioned, between 2019 and 2020, which included 'Primary Hypertension' in respect of which Respondent confined his claim for disability pension before the Tribunal. The RMB assessed the disability as neither attributable to nor aggravated by military service in its opinion dated 31.08.2022, leading to rejection of Respondent's claim for disability pension. Respondent admittedly served in the Army for over 3 decades and when he was commissioned on 16.12.1989, there was no record of any pre-existing illness or disease. In light of this undisputed factual position, case of the Respondent is covered on all four corners by the judgment of the Supreme Court in ***Dharamvir Singh (supra),*** where the Supreme Court elucidated certain principles for determining grant of disability pension and two of them were 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 entrance, to the contrary and any subsequent deterioration in health will be presumed to be due to service. The onus of proof is not on the employee and it is for the employer to prove the reason for non-entitlement. In ***Union of India & Another v Rajbir Singh, 2015 SCC OnLine SC 119*** referring to the judgment in ***Dharamvir Singh (supra),*** the Supreme Court restated and reaffirmed this position of law.

12. The argument on behalf of the Petitioners that the Supreme Court in

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Dharamvir Singh (supra), was essentially based on Entitlement Rules 1982 while the present case is based on Entitlement Rules, 2008 and therefore, it is imperative to show a casual nexus between the disability and the military service, in our view, holds no water in light of the recent judgment in ***Union of India & Others v. Col. NC Isaac (Retd), 2026 SCC OnLine SC 1895,*** where the Supreme Court *inter alia* dealt with the issue whether Entitlement Rules, 2008 make a significant departure from Entitlement Rules 1982 and comparing the relevant rules held that mere addition of a casual requirement and removal of the presumption by amending Rule 5 of Entitlement Rules, 1982 and incorporating words '*the mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service*', does not by itself, change the core scheme of Entitlement Rules, 2008 because other beneficial provisions broadly remain untouched. The Supreme Court observed that the onus to prove that member's disability is not attributable to service, still lies on the employer and the relevant rules regarding attributability and aggravation continue to hold that if cause of disability is unknown and presumption of attributability is not rebutted, then the disability is attributable to service and Rule 7 of Entitlement Rules, 2008 read with Rule 423 of Regulations 2010 continue to generate a reasonable benefit of doubt in favour of the service member. Therefore, the fact that the present case falls under Entitlement Rules, 2008 while decision in ***Dharamvir Singh (supra)*** is based on Entitlement Rules 1982, makes no difference and this contention merits rejection.

13. Insofar as the argument of the Petitioners that Respondent is not entitled to disability pension since the onset of disability was in peace area is concerned, the same cannot be accepted. Division Bench of this Court in

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HFL Youdhisthir Singh Retd. v. Union of India & Others, 2026 SCC OnLine Del 2747 was dealing with case of disability pension in respect of 'Primary Hypertension' and one of the contentions of Union of India was that the onset of disease was in peace station. Rejecting this argument, Court allowed the writ petition and set aside the order of the Tribunal dismissing the Original Application filed by the Petitioner, relying on the judgment in ***Union of India and Others v. Col. Balbir Singh (Retd), 2025 SCC OnLine Del 7873,*** wherein it was held that whether a disability or death occurs in field or active service area or under normal peace conditions, is immaterial as even in peace stations, military service is inherently stressful due to combination of factors such as strict discipline, long working hours, limited personal freedom and constant readiness for deployment. The psychological burden of being away from family, living in isolated or challenging environments and coping with uncertainty of sudden transfers or duties adds to this strain. Additionally, toll of continuous combat training further contributes to mental fatigue. Despite absence of active conflict or challenges of hard area postings, the demanding nature of military life at peace stations can significantly impact the overall well-being of personnel. Relevant passages from the judgment are as follows:-

> *"**66**. It would also be important to note the provision relevant to attributability, that is, Regulation 423 of the Regulations for the Medical Services of the Armed Forces, 2010. The said provision reads 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*

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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 favor, 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. Adisease 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. ……"*

***67**. This provision was summarized in Rajumon T.M. (supra), wherein it was observed as under:*

> *"17. A careful examination of Regulation 423 of the Regulation for Medical Services for Armed Forces would reveal the following aspects:*
>
> > *1. It is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions*

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2. It is, however, essential to establish that the disability or death bore a casual connection with the service conditions.

3. All evidence, both direct and circumstantial, will be taken into account and benefit of reasonable doubt, if any, will be given to the individual.… … … …"

***68**. From a plain reading of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010, it is clear that whether a disability or death occurs in a Field/Active service area or under normal Peace conditions is immaterial.*

***69**. Nonetheless, it must be noted that even in Peace Stations, military service is inherently stressful due to a combination of factors such as strict discipline, long working hours, limited personal freedom, and constant readiness for deployment. The psychological burden of being away from family, living in isolated or challenging environments, and coping with the uncertainty of sudden transfers or duties adds to this strain. Additionally, the toll of continuous combat training further contributes to mental fatigue. Despite the absence of active conflict or the challenges of hard area postings, the demanding nature of military life at peace stations can significantly impact the overall well-being of personnel.*

***70**. Undisputably, even when not on the front lines or in hard areas, soldiers are aware that the threat is never far away. This environment, where danger is a constant reality for their peers and could become their own at any moment, creates a persistent state of mental and emotional strain that cannot be overlooked. Thus, military service, whether in peace locations or operational zones, inherently carries stress that may predispose Force personnel to medical conditions such as hypertension.*

***71**. Moreover, it must be noted that lifestyle varies from individual to individual. Therefore, a mere statement that a disease is a lifestyle disorder cannot be a sufficient reason to deny the grant of Disability Pension, unless the Medical Board has duly examined and recorded particulars relevant to the individual concerned.*

***72**. Having taken note of the aforesaid, it is pertinent to refer to the decision of the Co-ordinate Bench in Union of India v. WO Binod Kumar Sah (Retd) in W.P. (C) 3918/2025, wherein it has been held as under:*

"13. The mere fact that para 43 states that, in the case of an officer who was serving in field areas, HAA, CIOPS or was on prolonged afloat service when hypertension was first detected, there would be a presumption that the hypertension was attributable to, or aggravated by, military service, does not imply, as a sequitur, that, in all other cases, the presumption would be otherwise. The contrapositive cannot be implied.

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> *14. If an officer has undergone military service for 22 years before he was found suffering from hypertension, there can, in our reckoning, be no manner of doubt that an onerous duty would be cast on the RMB to establish that the hypertension was not attributable to, or aggravated by, military service. This would have to be established by cogent material, after garnering all requisite evidence. The Supreme Court has already laid down the nature of the exercise which has to be undertaken by the RMB in such cases."*
>
> ***73**. A reading of the above reinforces that disability pension cannot be denied solely on the ground that the onset of the disability occurred while the Force personnel were posted at Peace Station. Furthermore, it is evident that when Force personnel have rendered prolonged military service, there exists a substantial onus on the RMB to establish that the hypertension is not attributable to or aggravated by military service.*
>
> ***74**. It is disheartening that members of our Armed Forces are being denied disability pension solely on the aforementioned ground. This overlooks the continuous physical and mental stress faced by soldiers, regardless of their location."*

14. In light of this judgment, Petitioners can hardly argue that Respondent's posting in peace station where there was onset of disability, will be an impediment in grant of disability pension. For the completeness of record, we may otherwise note that the Tribunal has taken note of the fact that Respondent's entire tenure in the Army was not only in peace stations and intermittently he was also posted in field and CI areas. Petitioners' argument that due weight and credence must be given to opinions of Medical Boards, comprising of experts in the field is beyond cavil. But the opinion of the Medical Board cannot be seen in isolation and has to be read in conjunction with Entitlement Rules, Medical Guide etc. It is no longer *res integra* that the Medical Board while opining that the disability is neither attributable to nor aggravated by military service, must give cogent reasons for the conclusion after examining cases in light of etiology of the particular disease. ***[Ref.: Anil Madso (supra); Balbir Singh (supra); and Union of India & Ors. v. Ex Hav Ram Kumar, 2026 SCC OnLine Del 492].*** In the

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instant case, Petitioners are unable to show that Respondent was suffering from 'Primary Hypertension' at the time of his entry into service. Medical Board has done precious little to show that the disability existed when the Respondent was commissioned in service or was not due to service. As the law stands today, the fact that record of the Respondent does not show existence of 'Primary Hypertension' at the time of his induction into service, will give rise to a rebuttal presumption that it was attributable to or aggravated by military service and the presumption could have been rebutted by the Medical Board establishing in its report that the disability even if contracted in service was not attributable or aggravated, but that onus has not been assiduously discharged in the present case.

15. For all the aforesaid reasons, the impugned judgment of the Tribunal warrants no interference and the writ petition is accordingly dismissed.

16. Pending application stands disposed of.

JYOTI SINGH, J

GURVINDER PAL SINGH, J

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