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

% *Date of Decision: 13th October, 2026*

\# **CNR No. DLHC010497462026**

\+ W.P.(C) 15262/2026

NK DAYA RAM .....Petitioner

Through: Mr. Indra Sen Singh and Mr. Zeeshan Ali Khan, Advocates

versus

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

Through: Ms. Ira Singh, SPC with Mr. Ayush Kasana, G.P., Ms. Bhawna and Mr. Ratnesh, Advocates for Respondent No.1 to 3.

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 challenging judgment dated 31.07.2023, passed by Armed Forces Tribunal, Principal Bench (Tribunal) in OA 536/2016, whereby Petitioner's claim for disability pension has been rejected.

2. Case of the Petitioner as pleaded is that he was enrolled in Indian Army as Infantry Soldier/General Duty on 09.12.1996 after thorough medical examination and at that stage, there was no note of any disease or disability in his record. Upon attestation on 19.01.1998, Petitioner was posted to 3 JAT Regiment for further service and remained medically fit and in SHAPE-1 medical category for almost 14 years. During the course of

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service, Petitioner was diagnosed with 'Generalized Seizure' by the Medical Board on 26.01.2010 and placed in Low Medical Category (LMC) P3 (Temporary) w.e.f. 20.03.2010 and was subsequently permanently downgraded to LMC P2 w.e.f. 07.10.2010.

3. It is stated that vide letter dated 06.07.2011, Respondents sought to discharge the Petitioner due to non-availability of sheltered appointment. Before discharge, Petitioner was subjected to Release Medical Board (RMB) on 05.10.2011 held at Base Hospital, Delhi Cantt., which found the Petitioner suffering from 'Generalized Seizure' and the disability was assessed at 20% *albeit* the RMB opined that the disability was 'neither attributable to nor aggravated' by military service. Petitioner was discharged from service w.e.f. 31.12.2011 after completing service of 15 years and 23 days. By letter dated 09.02.2012, Army HQ approved the findings/ recommendations of RMB and held that Petitioner was not entitled to disability pension in terms of Regulation 179 of Pension Regulations for the Army, 1961 Part-I. First appeal dated 23.05.2012, filed by the Petitioner against non-grant of disability pension was rejected vide order dated 10.09.2012 followed by rejection of second appeal dated 19.11.2015, which was pending when the writ petition was filed. This led to filing of OA 536/2016 before the Tribunal and vide impugned judgment dated 31.07.2023, the OA was dismissed.

4. Perusal of the impugned judgment shows that the Tribunal primarily dismissed the OA on the ground that from the material on record and the averments made in the OA, there was no evidence to find even a remote casual link to any service-related trauma, which could be considered to be a contributory factor to the mental condition of the Petitioner. Reliance was

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placed by the Tribunal on the judgment of the Supreme Court in ***Narsingh Yadav v. Union of India, (2019) 9 SCC 667,*** where it was held that there can be no mechanical application of the principle that any disorder not mentioned at the time of enrolment is presumed to be attributable to or aggravated by military service. The Tribunal also observed that primacy must be accorded to the Medical Boards and in this context, placed reliance on the judgment of the Supreme Court in ***Union of India v. Ravinder Kumar, (2015) 12 SCC 291.***

5. Learned counsel for the Petitioner submits that the judgment of the Tribunal is contrary to Rule 9 of the Entitlement Rules Casualty Pensionary Awards to Armed Forces Personnel, 1982 (Entitlement Rules 1982), which provides that claimant of disability pension shall not be called upon to prove his or her entitlement and shall receive the benefit of any reasonable doubt. Rule 14(b) provides that cause of death or disability shall ordinarily be deemed to have arisen in service if no note of it was made at the time of entrance of the individual in military service. Rule 19 further provides that even in cases where attributability is not accepted, aggravation is to be accepted unless worsening of disease did not persist on the date of discharge/claim and Rule 5 significantly lays down that every member of the service shall be presumed to be in sound physical and mental condition except for any disability recorded at the time of entering the service and consequently, any deterioration in health will be presumed to be attributable to military service. Read together, these rules leave no doubt that if an individual's record at the time of entry does not contain a note of any pre-existing disease or illness, any disease or illness incurred while in service will be presumed to be attributable to military service and this position of

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law was affirmed by the Supreme Court in ***Dharamvir Singh v. Union of India and Others, (2013) 7 SCC 316.***

6. It is urged that the judgment in ***Dharamvir Singh (supra)*** was subsequently referred to and relied upon by the Supreme Court in ***Union of India and Another v. Rajbir Singh, (2015) 12 SCC 264*** in a batch of appeals and disability pensions were granted, restating and reaffirming the legal proposition and this Court has passed several judgements, allowing claims of disability pension, where individuals entered service without any pre-existing disabilities/diseases and suffered disabilities while in service, on the ground that disabilities will be presumed to be attributable to the service conditions, in the absence of proof and reasoning by the Medical Boards that disabilities were not attributable. More particularly, reliance is placed on the judgment in ***Union of India and Others v. Ex. SGT Upendra Kumar Bharti, 2025 SCC OnLine Del 8018,*** where Petitioner was diagnosed with 'Generalized Seizure' and disability was assessed at 20% and the Tribunal allowed the claim of disability pension and this Court upheld the order applying the principles culled out in ***Dharamvir Singh (supra)*** and the earlier decision of the Division Bench in ***Union of India and Others v. Ex Sub Gawas Anil Madso, 2025 SCC OnLine Del 2018.*** In light of these judgments, it is urged that the order of the Tribunal be set aside and claim of the Petitioner for disability pension be allowed as there was no note at the time of entry of the Petitioner in the Army that he was suffering from Generalized Seizure and the disability is wholly attributable to onerous service conditions.

7. Learned counsel for the Respondents *per contra* submits that disability pension has been rightly denied as the disability incurred by the

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Petitioner was held to be neither attributable to nor aggravated by the military service by RMB and findings and opinion of Medical Boards are not subject to judicial review. It is trite that primacy ought to be given to the opinion of Medical Boards, which comprise of experts in the field.

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

9. Indisputably, Petitioner did not suffer from any disease or illness when he was enrolled in the Indian Army in Infantry on 09.12.1996 and was discharged from service after rendering 15 years and 23 days in the Army on medical grounds. During the course of service, Petitioner was diagnosed with 'Generalized Seizure' by the Medical Board held on 26.01.2010 and placed in LMC P3 (T) w.e.f. 20.03.2010 and was later downgraded permanently to P2 w.e.f. 07.10.2010. On the opinion of the RMB held on 05.09.2011, Petitioner was discharged from service w.e.f. 31.12.2011 and while RMB assessed the disability at 20%, it opined that the disability was neither attributable to nor aggravated by military service and this became the basis of denial of disability pension to the Petitioner, both by the Respondents and the learned Tribunal.

10. Petitioner seeks disability pension owing to the disability he incurred during service, which became the basis of his release and Respondents deny his claim on the ground that the disability is neither attributable to nor aggravated by military service. The legal nodus arising before us is no longer *res integra.* In ***Dharamvir Singh (supra),*** the Supreme Court elucidated principles for determining the grant of disability pension and we quote:-

> *"**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).*

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)].*

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).*

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)].*

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)].*

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*

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

11. In ***Rajbir Singh (supra),*** the Supreme Court reiterated the legal position and held that the essence of Pension Regulations, Entitlement Rules and Guidelines to Medical Officers is that a 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

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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 and demonstrate that the disability was neither attributable to nor aggravated by 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.*
>
> ***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 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*

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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."*

12. It is relevant to note 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 the appeals, Respondent was diagnosed with 'Generalized Seizures', as is the case before us, and the Supreme Court held that the Respondents having been discharged from service on account of medical diseases/disabilities, the disabilities must be presumed to have arisen in course of service and hence, attributable to or aggravated by military service, in the absence of any reason recorded by the Medical Board, which evidenced to the contrary. *Sans* any note in the service records of the Respondents at the time of entry recording pre-existing disability/disease/illness or reasons by the Medical

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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. To the same effect are several judgements of this Court, but in order to avoid prolixity, we may refer to judgment in ***Gawas Anil Madso (supra),*** where following the aforesaid judgments disability pension was granted and has been upheld by the Supreme Court and specifically, the judgments in ***Union of India and Others v. Ex Lem (P) Satish Kumar, 2026 SCC OnLine Del 250*** and ***Union of India and Others v. Ex Lme Raju Kumar Tiwari, 2025 SCC OnLine Del 8446,*** where the disability was 'Generalized Seizure' and orders of the Tribunal granting disability pension, were upheld. This judgment will be incomplete without referring to a recent judgment of the Supreme Court in ***Union of India and Others v. Col. NC Isaac (Retd.), 2026 SCC OnLine SC 1895,*** wherein the Supreme Court was *inter alia* considering a long pending issue 'whether Entitlement Rules, 2008 make a significant departure from Entitlement Rules, 1982' and held that mere addition of a casual requirement and removal of presumption of Rule 5 of Entitlement Rules, 1982 that when a member joins the service healthy and leaves with a disability, it ought to be attributable to military service, does not by itself change the core scheme of Entitlement Rules, 2008 because other beneficial provisions broadly remain untouched. Relevant paragraphs from the judgment are as follows:-

> *"**29.** Leaving apart the question of legal effect of Entitlement Rules, 2008, the further question that arises for our consideration is whether the Entitlement Rules, 1982 have actually been varied or modified by the Entitlement Rules, 2008. The following is a comparative chart comprising of each subject such as, presumption at entry, onus of proof, when cause of disability is unknown, aggravation and benefit of doubt. As against each of these subjects, we have indicated the position of the Rule as it existed under the Entitlement Rules, 1982 and compared with the Entitlement Rules, 2008.*

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Subject	Entitlement Rules, 1982	Entitlement Rules, 2008
Presumption at Entry	**Rule 5.** The approach to the question of entitlement to casualty pensionary awards and evaluation of disabilities shall be based on the following presumptions: (a) A member is 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. (b) In the event of his subsequently being discharged from service on medical grounds any deterioration in his health, which has taken place, is due to service.	**Rule 5.** Medical Test at entry stage: The medical test at the time of entry is not exhaustive, but its scope is limited to broad physical examination. Therefore, it may not detect some dormant disease. Besides, certain hereditary constitutional and congenital diseases may manifest later in life, irrespective of service conditions. The mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service.
Causal Connection	**Rule 8** - Attributability/aggravation shall be conceded if casual connection between death/disablement and military service is certified by appropriate medical authority.	**Rule 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	**Rule 9 - Onus of Proof** The Claimant shall not be called upon to prove the condition of entitlements. He/she will receive the benefit of any reasonable doubt. This benefit will be given more liberally to claimants in field/afloat service cases.	**Rule 7 - Onus of Proof** *Ordinarily,* 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 claimant are destroyed after prescribed retention period, the onus to prove entitlement would lie on the claimant.
Aggravation	**Rule 20** - If it is established that the disability was not caused by service, attributability shall not be conceded. However, aggravation by service is to be accepted unless any worsening in his condition was not due to his service or worsening did not persist on the date of discharge/claim.	**Rule 11** - 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 Altitudes etc.
When Cause of disability is unknown	**Rule 20(a)** - If nothing at all is known about the cause of the disease, and presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded.	**Rule 10(b)(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.

i. No significant change in core scheme

30. *Having conducted a comparative analysis of the modifications in the Entitlement Rules, 2008, our opinion against each subject is as follows -*

30.1. Presumption at Entry of Service: *Rule 5 of the Entitlement Rules, 1982 clearly creates a presumption that a member of service is in sound physical and mental health at the time of entrance, and as such, any disability at the time of discharge would be attributable to military service. Rule 5 of the Entitlement Rules, 2008 withdraws this presumption by adding a causal connection requirement. It notes 'mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service'.*

30.2. Causal Connection: *Rule 8 of the Entitlement Rules, 1982 and Rule 6 of the Entitlement Rules, 2008 even though the framing is different, in substance, are identical. Rule 8 requires an appropriate medical authority to certify the causal connection, while Rule 6 of the Entitlement Rules, 2008 requires an appropriate authority to establish a causal connection.*

30.3. Onus of Proof: *Rule 9 of the Entitlement Rules, 1982 holds that the ex-servicemen will receive a reasonable benefit of doubt and that they shall not be called upon to prove their disability is attributable to*

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service. Rule 7 of the Entitlement Rules, 2008 broadly carries forward this rule position and continues to place the onus of proof on the employer.

30.4. *However, this rule carves out a narrow exception to this rule, being claims made after 15 years of discharge/retirement/ invalidment/release. While this exception is significant for different reasons, which shall be discussed, suffice it to say that Rule 7 of Entitlement Rules, 2008 broadly carries forward Rule 9 of Entitlement Rules, 1982.*

30.5. Aggravation: *Rule 20 of the Entitlement Rules, 1982 operates for servicemen who have disabilities which may not be attributable to service, but may have been aggravated by service. It assumes aggravation unless it is specifically proved that aggravation was not caused due to service. Rule 11 of the Entitlement Rules, 2008 not only reproduces an identical scheme from the earlier rule, but also further clarifies the Rule by noting that "disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions".*

30.6. When cause of disability is unknown: *Rule 20(a) of the Entitlement Rules, 1982 concedes attributability to military service in cases where the cause of disease is unknown. Rule 10(b)(iii) of the Entitlement Rules, 2008 parallels this logic and only clarifies that attributability is to be conceded on basis of clinical picture and current scientific medical application.*

30.7. Conclusion*: The mere addition of a causal requirement and a removal of the presumption that when a member joins service healthy, and, if, he leaves with a disability, it ought to be attributable to the military service, does not, by itself, change the core scheme of the Entitlement Rules, 2008 because the other beneficial provisions broadly remain untouched. The onus to prove that the member's disability is not attributable to service still lies on the employer. 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. Rule 7 of the Entitlement Rules, 2008 read with Rule 423 of the RMSAF, 2010 continue to generate a reasonable benefit of doubt in favour of the service member.*

xxx *xxx* *xxx*

31.1. *The aforementioned High Court judgments in Bhaskaran, Anil Madso and Col. Balbir Singh converge with our opinion that even though Entitlement Rules, 2008 removed the automatic presumption and strengthened the requirement of causal nexus, they did not dismantle the claimant-protective structure of the Rules, particularly the continued*

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allocation of primary burden to the establishment and beneficial principles governing attributability, aggravation and reasonable doubt. Bhaskaran reaches the same conclusion that the onus of proof is similar, with a minor caveat (reversal of onus in belated claims), and, that attributability/aggravation to military service can be established through causal connection, which, in our opinion, existed in Entitlement Rules, 1982 as well. Anil Madso recognises that the Entitlement Rules, 2008 removed the earlier presumption under Rule 5, but still holds that this did not automatically shift the burden of establishing entitlement onto the claimant, since Rule 7 continues to place the initial burden on the establishment."

13. In light of the wealth of judicial precedent, we cannot subscribe to the view taken by the Tribunal that there is no causal connection between the service condition and the disability incurred by the Petitioner during service *sans* any note of the Petitioner suffering from any disability at the time of entry into service and a presumption has to be drawn that his disability 'Generalized Seizure' is attributable to military service. Petitioner is thus entitled to disability pension @ 20%, rounded off to 50% w.e.f. 31.12.2011 for life. The arrears shall be paid to the Petitioner within three months from today, failing which the amount shall carry interest @ 6% p.a. till date of actual payment. Resultantly, the impugned judgment dated 31.07.2023 in OA 536/2016 of the learned Tribunal as also impugned letter dated 09.02.2012 issued by the Respondents, rejecting the claim of the Petitioner, are quashed and set aside.

14. Writ petition is thus allowed and disposed of in the aforesaid terms.

JYOTI SINGH, J

GURVINDER PAL SINGH, J

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