

(2025) 02 DEL CK 1147
In the Delhi High Court
Case No : Writ Petition (C) No. 1973 Of 2025

Union Of India & Ors

APPELLANT

Vs

Mcpoaf I Hon Lt Avtar Singh

RESPONDENT

Date of Decision : 17-02-2025

Acts Referred:

Citation : (2025) 02 DEL CK 1147

Hon'ble Judges : Navin Chawla, J;Shalinder Kaur, J

Bench : Division Bench

Advocate : Syed Abdul Haseeb, Ravi Kumar

Final Decision : Dismissed

Judgement

Navin Chawla, J

CM APPL. 9265/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 1973/2025 & CM APPL. 9264/2025

2. This petition has been filed by the petitioners, challenging the Order dated 21.12.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi ("Tribunal"), in Original Application ("OA"), being OA No. 2804/2022, titled MCPOAF-I (Hon Lt.) Avtar Singh (Retd.) v. Union of India & Others, by which the learned Tribunal allowed the OA filed by the respondent herein, with the following directions:-

"8. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 31.07.2021 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012) decided on 10.12.2014.

9. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment."

3. The learned counsel for the petitioners submits that the learned Tribunal has erred in allowing the OA filed by the respondent merely by placing reliance on the judgment of the Supreme Court in Dharamvir Singh v. Union of India and Others, (2013) 7 SCC 316, without appreciating that the Release Medical Board had duly assessed the disability of the respondent and found the same to be neither attributable to nor aggravated by the service. The disability suffered by the respondent was Primary Hypertension, which is more of a lifestyle disease rather than something which can be attributed to or aggravated by only service conditions.

4. Issue notice.

5. Notice is accepted by Mr. Ravi Kumar, the learned counsel on behalf of the respondent.

6. He submits that the disability of Primary Hypertension suffered by the respondent, was first diagnosed on 23.01.2007. In Subsequent Categorisation Medical Boards, it was repeatedly opined that the disability was aggravated by service conditions due to stress and strain of service. These Medical Board proceedings were never challenged by the petitioners. However, at the time of the Release Medical Board on 16.03.2021, without providing any reasons for disagreeing with the earlier Categorisation Medical Boards, the Release Medical Board declared the disability of the respondent to be neither attributable to nor aggravated by the service condition. The same was duly challenged before the learned Tribunal, and the learned Tribunal has, therefore, rightly allowed the OA and directed the petitioner to release the disability pension to the respondent.

7. The learned counsel for the respondent has taken us through the various categorisation Medical Board proceedings, which were annexed by the respondent along with the OA filed before the learned Tribunal. The respondent has also summarised the same in paragraph 4.3 of the OA, which is reproduced herein below:-

"Date of Medical Board

Finding of Medical Board with respect to attributability / aggravation aspect for disease PRIMARY HYPERTENSION

05 Mar 2007

Initial Medical Board conceded the disability as aggravated by service (ANNEXURE A4).

24 Aug 2007

Annual Medical Board conceded the disability as aggravated by service (ANNEXURE A5).

15 Oct 2009

Annual Medical Board conceded the disability as aggravated by service (ANNEXURE A6).

17 Nov 2011

Annual Medical Board conceded the disability as aggravated by service (ANNEXURE A7).

29 Nov 2013

Annual Medical Board conceded the disability as aggravated by service (ANNEXURE A8).

The copy of medical Boards conducted after 2013, is not available with the applicant. However, applicant believes that his disability was conceded aggravated in all the Annual Medical Boards."

8. We have considered the submissions made by the learned counsels for the parties.

9. From the above, it is apparent that the repeated Categorisation Medical Boards had opined that the disability of hypertension suffered by the respondent, was aggravated by service condition. We find that the Release Medical Board, however, without assigning any reasons for disagreeing with the previous Categorisation Medical Board proceedings, rejected the claim that the disability is aggravated by service, only on the ground that it had been noticed for the first time when the respondent was stationed at a peace area. This itself could not have been a relevant criteria. In fact, the same posting profile had also been seen by the earlier Categorisation Medical Boards and still an opinion was formed that the disability suffered by the respondent was aggravated by service.

10. In view of the above, the learned Tribunal has rightly set aside the findings of the Release Medical Board and declared the disability suffered by the respondent to be aggravated by service conditions, thereby entitling the respondent to the grant of disability element of pension. We find no infirmity in the order passed by the learned Tribunal.

11. Accordingly, the present petition is dismissed.

12. We must herein also observe that the Impugned Order was passed by the learned Tribunal on 21.12.2023, whereas the present petition has been filed only on 13.02.2025, that is, more than a year thereafter. The respondent, who has superannuated after having given his entire life to the military service and to the service of the nation, is being made to run around for his entitlement to disability

element of pension. The petitioners shall, therefore, pay costs of Rs. 15,000/- to the respondent.

13. We have observed from our limited experience sitting on this Roaster that the orders passed by the learned AFT directing grant of disability element of pension to the officers of the Armed Forces are being challenged before us in a routine manner, with much delay, and without appreciating the peculiar facts of each case. We would, therefore, call upon the petitioners to thoroughly examine the cases of disability pension before challenging the same in a routine manner before this Court.