

(2026) 02 KL CK 1722
In the High Court Of Kerala
Case No : Writ Petition (C) No. 37473 Of 2025

Union Of India

APPELLANT

Vs

Mohanan Madathil Koliyat

RESPONDENT

Date of Decision : 26-02-2026

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2026) 02 KL CK 1722

Hon'ble Judges : K. Natarajan, J; Johnson John, J

Bench : Division Bench

Advocate : Gayathri Krishnan, T.R.Jagadeesh, Adi Narayanan, Jose Job

Final Decision : Dismissed

Judgement

Johnson John, J

1. The order of the Armed Forces Tribunal, Regional Bench, Kochi allowing disability element of pension to the respondent is under challenge in this writ petition filed by the Union of India.
2. Heard Smt. Gayathri Krishnan, the learned Central Government Counsel appearing for the Union of India and Sri. Adi Narayanan, the learned counsel for the respondent.
3. The learned Central Government Counsel argued that the opinion of the Release Medical Board would clearly show that the disability due to diagnosis (Mitral Valve Prolapse V-67) is neither attributable to nor aggravated by military service and in the absence of any causal connection between the disease or injury and the military service, the Tribunal is not justified in granting the disability element of pension to the respondent.
4. The learned counsel for the respondent argued that the onus of proving that the disability is not attributable to the military service, is on the authority, especially when an individual is physically fit at the time of enrolment and no

note regarding adverse physical factor is made at the time of entering service and in this case, the Release Medical Board has not given any reason for the conclusion that the disease is constitutional even though the respondent is recommended to be released in medical category CEE (permanent).

5. The respondent was enrolled in the Regiment of Artillery on 15.12.1971 and was discharged from service on 01.06.1987 after completing 15 years and 168 days of service. The respondent was discharged before completion of his service as he was recommended to be released in medical category "CEE permanent". According to the respondent, his repeated request for grant of disability pension was not allowed and subsequently during May, 2017, he filed Annexure A2 application seeking disability pension; but, the same was declined as per Annexure A3 on the ground that his disability was neither attributable to nor aggravated by military service.

6. Regulation 173 of the Pension Regulations for the Army, 1961 deals with the primary conditions for the grant of disability pension and the same reads thus:

"173. Primary conditions for the grant of disability pension. — Unless otherwise specifically provided a disability pension may be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service and is assessed at 20 per cent or above."

7. The relevant portions in appendix II to the said Regulations read as follows:

"2. Disablement or death shall be accepted as due to military service provided it is certified that—

(a) The disablement is due to wound, injury or disease which—

(i) is attributable to military service; or

(ii) existed before or arose during military service and has been and remains aggravated thereby;

(b) the death was due to or hastened by—

(i) a wound, injury or disease which was attributable to military service, or

(ii) the aggravation by military service of a wound, injury or disease which existed before or arose during military service.

Note.—The rule also covers cases of death after discharge/invaliding from service.

3. There must be a causal connection between disablement or death and military service for attributability or aggravation to be conceded.

4. In deciding on the issue of entitlement all the evidence, both direct and circumstantial, will be taken into account and the benefit or reasonable doubt will be given to the claimant. This benefit will be given more liberally to the claimant in field service case."

8. A careful examination of the aforesaid Regulation 173 read with Appendix II would reveal that disability must be attributable to or aggravated by military service for the purpose of grant of disability pension and what amounts to disability has been elaborated in Appendix II of the Regulations as quoted above. From Appendix II, it can be seen that there must be a casual connection between disablement or death and military service for attributability to be conceded. Further, clause 4 of Appendix II provides that in deciding on the issue of entitlement, it is necessary to consider all the evidence and the benefit of reasonable doubt will be given to the claimant.

9. Regulation 423 of the Regulations for Medical Services for Armed Forces, 1983 ("Regulations, 1983" for short) provides how a disability can be attributed to service and the same is extracted below for convenient reference:-

"423. Attributability to service.— (a) For the purpose of determining whether the cause of a disability or death is or is 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 Service/Active Service area or under normal peace conditions. It is, however, essential to establish whether the disability or death bore a casual connection with the service conditions. All evidence, both direct and circumstantial, will be taken into account and 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 carry the 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 favour, 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 cases occurring in Field Service/Active Service Areas.

(b) The cause of a disability or death resulting from wound or injury, will be regarded as attributable to service if the wound/injury was sustained during the actual performance of 'duty' in Armed Forces. 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. A disease 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.

(d) The question, whether a disability or death is attributable to or aggravated by service or not, will be decided as regards its medical aspects by a Medical Board or by the medical officer who signs the death certificate. The Medical Board/Medical Officer will specify reasons for their/his opinion. The opinion of the Medical Board/Medical Officer, insofar as it relates to the actual cause of the disability or death and the circumstances in which it originated will be regarded as final. The question whether the cause and the attendant circumstances can be attributed to Service will, however, be decided by the pension sanctioning authority.

(e) To assist the medical officer who signs the death certificate or the medical board in the case of an invalid, the CO unit will furnish a report on:

(i) AFMS F-81 in all cases other than those due to injuries.

(ii) IAFY-2006 in all cases of injuries other than battle injuries.

(f) In cases where award of disability pension or reassessment of disabilities is concerned, a Medical Board is always necessary and the certificate of a single medical officer will not be accepted except in case of stations where it is not possible or feasible to assemble a regular Medical Board for such purposes. The certificate of a single medical officer in the latter case will be furnished on a Medical Board form and countersigned by the ADMS (Army)/DMS (Navy)/DMS (Air)."

10. The learned Central Government Counsel appearing for the petitioner relied upon the decisions of the Honourable Supreme Court in *Union of India and Ors. v. Keshar Singh* (2007) 12 SCC 675, *Om Prakash Singh v Union of India and Ors.* (2010) 12 SCC 667, *Secretary, Ministry of Defence and Ors. v. A. V Damodaran (Dead) through LRs. and Ors.* (2009) 9 SCC 140 and *Union of India and Ors. v. Ram Prakash* (2010) 11 SCC 220 and contended that the opinion of the Medical Board on the question whether the disability is attributable to or aggravated by military service must be respected and that the opinion expressed by medical experts could not be lightly brushed aside.

11. Per contra, the learned counsel for the respondent argued that a careful examination of the Regulation 423 of the Regulations, 1983 would show that a disease 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, and in this case, a

perusal of the medical board proceedings would show that no reasons have been assigned for recording the conclusion that the disease is constitutional and the same is not attributable to or aggrieved by military service.

12. In *Dharamvir Singh v. Union of India and Others* [(2013) 7 SCC 316], the Honourable Supreme Court held that a member of Armed Forces is presumed to be in sound physical and mental condition upon entering service, if there is no note or entry to the contrary in his records. In the event, he is subsequently discharged from service on medical grounds, the onus of proof that the deterioration in his health was not due to service conditions lie on the employer. At paragraph 34 of the said judgment the Apex Court held thus:

“34. As per Rule 423(a) of the General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is 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 service/active service area or under normal peace conditions. “Classification of diseases” have been prescribed at Chapter IV of Annexure I; under Para 4 post-traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing, etc. Therefore, the presumption would be that the disability of the appellant bore a causal connection with the service conditions. ”

13. In *Union of India and another v. Rajbir Singh* [(2015) 12 SCC 264], the Honourable Supreme Court held that provision for payment for disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with disability at times even before they completed their tenure in the Armed Forces.

14. In *Veer Pal Singh v. Secretary, Ministry of Defence* [(2013) 8 SCC 83], the Apex Court held that although, the courts are extremely loath to interfere with the opinion of the experts, there is nothing like exclusion of judicial review of the decision taken on the basis of such opinion.

15. In this case, part III of the Form wherein the opinion of the medical board is given, the following entries are made:

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PART III

OPINION OF THE MEDICAL BOARD

(Not to be communicated to the individual)

Note: Clear and decisive answers should be filled in by the Board. Expressions such as ‘might’, ‘may’, ‘probably’, should be avoided

1. Did the disability/ies exist before entering service No

2. (a) In respect of each disability the Medical Board on the evidence before it will express its view as to whether:

(i) It is attributable to service during peace or under field service conditions; or

(ii) It has been aggravated thereby and remain so; or

(iii) It is not connected with service.

The Board should state fully the reasons in regard to each disability on which its opinion is based.

Disability

A

B

C

Mitral valve No No Yes

Prolapse V-67

(b) In respect of each disability shown as attributable under A, the Board should state fully, the specific condition and period in service which caused the disability.

(c) In respect of each disability shown as aggravated under B, the Board should state fully:

(i) The specific condition and period in service which aggravated the disability.

(ii) Whether the effects of such aggravation still persist.

NA

(iii) If the answer to (ii) is in the affirmative, whether effect of aggravation will persist for a material period.

(d) In the case of a disability under C, the Board should state what exactly in their opinion is the cause thereof.

The disease is constitutional

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3. (a) Was the disability attributable to the individual's own negligence or misconduct? If so, in what way?

No

(b) If not attributable, was it aggravated by negligence or misconduct? If so, in what way and to what percentage of the total disablement?

No

(c) Has the individual refused to undergo operation/treatment? If so, individual's reasons will be recorded.

No

Note: in case of refusal of operation/treatment certificate from the individual will be attached.

(d) Has the effect of refusal been explained to and fully understood by him/her viz. a reduction in, or the entire withholding of, and disability pension to which he/she might otherwise be entitled?

(e) Do the Medical Board consider it probable that the operation/treatment would have cured the disability or reduced its percentage?

(f) If the reply to (e) is affirmative, what is the probable percentage to which the

disablement could be reduced by operation/treatment?

NA

(g) Do the Medical Board consider the operation to be severe and dangerous to life?

(h) Do the Medical Board consider the individual's refusal to submit to operation/treatment reasonable

Give reasons in support of the opinion specifying the operation/treatment recommended.

4. What is present degree of disablement as compared with a healthy person of the same age and sex?

(Percentage will be expressed as 'Nil' or as follows):

1-5%, 6-10%, 11-14%, 15-19% ?? ???? ?? ? 20% ???? ???
100% ??? ?? ?? ?????? ??? 1-5%, 6-10%, 11-14%, 15-19% and thereafter in
multiples of ten from 20% to 100%

Disability (as numbered in question 1, part II)

Percentage of Disablement

Probable duration of this degree of disablement

Composite assessment (all disabilities)

Mitral valve Prolapse V-67

20% 30%

Two Yrs

20% 30%

Twenty %

Twenty %

Twenty %

Twenty %

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5. Is the individual in need of further treatment and, if so, of what nature and for how long is it likely to be required?

No

6. Does the individual require an attendant? If so, (i) whole or part time; (ii) permanently or temporarily (iii) if temporarily, for how long?

No

Recommended to be released in med cat CEE (perm)

Signature : President

sd/-

Place:

(D K Sen)

L. Col

Date:13 Mar 87

President Medical Board

Signature : Member

16. The aforesaid entries in part III of the form reveals that no reasons have been assigned in support of the conclusion that the disease is constitutional, in spite of the fact that it has been specifically mentioned therein that the medical board should state fully the reasons in regard to each disability on which its opinion is based.

17. In Rajumon T. M v. Union of India and others (2025 SCC OnLine SC 1064), the Honourable Supreme Court held thus in paragraphs 20, 21 and 22:

"20. In our opinion, the requirement to give reasons by the Medical Board is crucial, critical, decisive and necessary for the purpose of granting or denying disability pension and it is not a mere formality, but a necessary material on the basis of which the pension sanctioning authority has to decide about the grant or refusal of disability pension.

21. As noticed above, it has been specifically provided under Clause (d) of Regulation 423 as quoted that the question as to whether the disability is attributable to or aggravated by service or not, will be decided as regards its medical aspects by the Medical Board and the Medical Board will specify reasons for their opinion and the question whether the cause and attendant circumstances can be attributed to service will be decided by the pension sanctioning authority.

22. Thus, this requirement to give reasons by the Medical Board about their opinion is in our view absolutely necessary as also required under Regulation 423(d) for the reason that the fate of the future career of the serviceman is going to be decided by the opinion of the Medical Board, which is to be treated as final as regards the cause of disability and the circumstances in which the disability originated. The continuation of the service of the concerned serviceman and as to whether he will be entitled to disability pension is dependent on the opinion of the Medical Board which is also to be treated as the final one.”

18. In view of the above legal position, it is clear that when the serviceman is discharged from service and denied the disability element of pension on the basis of a medical opinion which is devoid of reasons, it would strike at the root of the action taken by the authority and such action cannot be sustained in law. In the present case, as noticed from part III of the form, it is clear that the medical board has not given any reasons for arriving at the conclusion that the disease ‘Mitral valve Prolapse V-67’ is constitutional. The said opinion or conclusion is without assigning any reasons as to how the medical board has come to the conclusion that the disease is constitutional. It is well settled that there is a difference between the conclusion or opinion and reasons to support such a conclusion or opinion and in the absence of any reasons in support of such a conclusion or opinion, the same cannot be treated as reasons for denial of the disability element of pension to the respondent.

19. In *Union of India v. Parashotam Dass* (2025) 5 SCC 786, the Honourable Supreme Court held that where there is denial of fundamental right or jurisdictional error or error apparent on the face of record, the High Court can interfere by exercising the jurisdiction under Article 226 of the Constitution of India and that self-restraint by High Court in exercise of jurisdiction under Article 226 of the Constitution is distinct from putting embargo on High court in exercising such jurisdiction. In the said decision, the Honourable Supreme Court held thus in paragraph 30:

“30. How can courts countenance a scenario where even in the aforesaid position, a party is left remediless? It would neither be legal nor appropriate for this Court to say something to the contrary or restrict the aforesaid observation enunciated in the Constitution Bench judgment in *S.N. Mukherjee* [*S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242] case. We would loath to carve out any exceptions, including the ones enumerated by the learned Additional Solicitor General extracted aforesaid as

irrespective of the nature of the matter, if there is a denial of a fundamental right under Part III of the Constitution or there is a jurisdictional error or error apparent on the face of the record, the High Court can exercise its jurisdiction.

There appears to be a misconception that the High Court would reappreciate the evidence, thereby making it into a second appeal, etc. We believe that the High Courts are quite conscious of the parameters within which the jurisdiction is to be exercised, and those principles, in turn, are also already enunciated by this Court.”

20. As noticed earlier, the medical board has not stated any reasons for their opinion that the disease is constitutional and we find no jurisdictional error or error apparent on the face of the record warranting interference by this Court and therefore, we find that this writ petition is liable to be dismissed.

In the result, this writ petition is dismissed.