

**Union of India and Others vs Lt Col Ajay Kumar Retd**

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**SooperKanoon Citation :** [sooperkanoon.com/1260349](https://sooperkanoon.com/1260349)

**Court :** Delhi

**Decided On :** Mar-30-2026

**Judge :** Hon'Ble Mr. Justice V. Kameswar Rao, Hon'Ble Ms. Justice Manmeet Pritam Singh Arora

**Appeal No. :** W.P.(C)/4126/2026

**Appellant :** Union of India and Others

**Respondent :** Lt Col Ajay Kumar Retd

**Advocate for Pet/Ap. :** Ms. Puja S. Kalra

**Judgement :**

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision : 30.03.2026 + W.P.(C) 4126/2026 CM APPL. 20137-20140/2026 UNION OF INDIA AND OTHERS .....Petitioners Through:  
Ms. Puja S. Kalra, CGSC Major Kanika Sharma, Army

**versus**

LT COL AJAY KUMAR RETD .....Respondent Through: None

## **CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**MANMEET PRITAM SINGH ARORA, J. (ORAL)**

CM APPL. 20139-20140/2026 (exemption)

1. Exemption is allowed subject to all just exceptions.
2. The applications are disposed of.

## **W.P.(C) 4126/2026**

3. This is a writ petition filed under Article 226 of the Constitution of

India against the order dated 15.10.2024 [impugned order] passed by the Armed Forces Tribunal Principal Bench, New Delhi [Tribunal] in Original Application [O.A.] No. 3998/2023 titled as Lt. Col Ajay Kumar (Retd.) v. Union of India & Ors., wherein the Respondent has been granted the benefit of the disability element of pension for Primary Hypertension assessed at 30% for life, rounded off to 50% for life, from the date of his

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discharge from the service.

4. The facts giving rise to the present petition are that the Respondent

was discharged from the service on 25.02.2023 on completion of contractual tenure.

5. The Release Medical Board [RMB] held on 19.12.2022 assessed the

disability i.e., Primary Hypertension at 30% for life and opined that the disability was aggravated by military service due to stress and strain in Fd/CI Ops areas and then forwarded the case to competent authority for statutory adjudication. The competent authority, thereafter, held that the disability is Neither Attributable Nor Aggravated [NANA] by the military service. Respondents claim of disability pension was rejected on 03.03.2023, as the disability was held to be NANA.

6. The Respondent preferred First Appeal which was also rejected vide

letter dated 25.09.2023.

7. Subsequently, Respondent filed an O.A. No. 3998 of 2023 before the

Tribunal for the grant of disability element of pension. By the impugned order, the Tribunal after referring to the judgments of the Supreme Court in Dharamvir Singh v. Union of India and Ors.<sup>1</sup> and Union of India v. Ram Avtar<sup>2</sup> has granted the relief of disability pension to the Respondent.

8. The submissions made by the learned counsel for the Petitioners is

that the Tribunal has failed to appreciate the decision of Appellate Committee on First Appeals [ACFA] which has held that the disability of Primary Hypertension is NANA as it does not fulfil the conditions laid down

**2013 (7) SCC 361**

2014 SCC OnLine SC 1761

as per Rule 6, 10 & 11 of the Entitlement Rules, 2008 read in conjunction with Para 43, Chap VI, GMO 2002, amended 2008. 8.1 She states that the competent authority has determined the disease of Primary Hypertension to be a metabolic disorder with a strong genetic and constitutional etiology. While the onset of the disease occurred during the Respondents posting in a field area (North Sikkim), the Competent Authority, after a detailed examination of the medical dossier, determined that the disease was constitutional in origin and not directly caused by service - related stress. 8.2 She submits that mere presence of the officer in a field area, at the time of detection does not automatically establish attributability. 8.3 She states that the Tribunal has erred in restoring the RMBs finding of aggravation solely on generalized notions of stress, ignoring the Competent Authoritys specific determination that the disease was constitutional in nature.

#### **8.4 She submits that the reliance placed by the Tribunal on the judgment**

of Dharamvir Singh v. Union of India and Ors. (supra) is totally misplaced as in the said case the presumption of attributability is applicable to cases of invalidation. In the present case, the Respondent completed his full contractual tenure and was released. Therefore, the burden of proof lays on the Respondent to establish a causal link between service conditions and the onset of the constitutional disease, which the Respondent failed to discharge.

9. Having perused the reasons recorded in the RMB holding that the

disease is aggravated by military service and the reasons recorded in the

First Appeal for opining NANA, we are unable to agree with the submissions made by the Petitioners that the Tribunal committed any error in granting relief to this Respondent.

10. In another petition, i.e., W.P.(C) 88/2026 titled Union of India v.

781466 Ex. SGT Krishna Kumar Dwivedi, decided by this Bench on 06.01.2026, our attention was drawn to the authoritative judgments of the coordinate Benches of this Court passed in W.P.(C) 3545/2025 titled Union of India v. Ex. Sub Gawas Anil Madso<sup>3</sup> and W.P.(C) 140/2024 titled Union of India vs. Col. Balbir Singh (Retd.) and other connected matters<sup>4</sup>, which have conclusively held that an officer, who suffers from a disease at the time of his release and applies for disability pension within 15 years from release of service, is ordinarily entitled to disability pension and he does not have any onus to prove the said entitlement. The judgments emphatically hold that, the onus to prove a causal connection between the disability and military service is not on the officer but on the administration. These judgments hold that the Entitlement Rules, 2008, however, contemplate that in the event the Medical Board concludes that the disease, though contracted during the tenure of military service, was NANA by military service, it would have to give cogent reasons and identify the cause, other than military service, to which the ailment or disability can be attributed. The judgments hold that the burden to prove the disentitlement of pension therefore remains on the military department even under the Entitlement Rules, 2008; and emphasise on the significance of the Medical

**2025: DHC: 2021-DB**

**2025: DHC: 5082-DB**

Board to give specific reasons to justify their opinion for denial of this beneficial provision to the officer.

11. On the issue of establishing causal connection of the disease with

factors other than military service, we note that the Supreme Court in its recent judgment in the case of *Bijender Singh vs. Union of India*<sup>5</sup> has reiterated that it is incumbent upon the Medical Board to furnish reasons for opining that a disease is NANA and the burden to prove the causal connection (as other than military service) is on the Military Establishment. The character of reasons to be recorded by the Medical Board has been succinctly explained by the Supreme Court in another recent decision of *Rajumon T.M. v. Union of India*<sup>6</sup>. The Supreme Court held that merely stating an opinion, such as Constitutional Personality Disorder without giving reasons or causative factors to support such an opinion, is an unreasoned medical opinion and thus invalid. The Supreme Court explained that the said opinion of the Medical Board was merely a conclusion and would not qualify as a reasoned opinion for holding the disease/disability to be NANA.

12. In this background of settled law holding that the onus to prove

disentitlement remains on military establishment vis--vis Entitlement Rules, 2008 and the Medical Board must record cogent reasons in its report for denying attributability and aggravation for the military establishment to justify denial of disability pension, we have examined the facts of this case.

13. The Respondent was commissioned in the Army Medical Corps

2025 SCC OnLine SC 895 at paragraphs 45.1, 46 and 47 2025 SCC OnLine SC 1064 at paragraphs 25, 26, 32 and 36

[AMC] on 26.02.2009 and the disease/disability Primary Hypertension was discovered in the year 2020 [after 11 years of service], while he was serving at field station at 327 Fd Hosp Chungthang (North Sikkim) and therefore, the disease has indisputably arisen during his military service. As noted above, the Respondent was discharged from service on 25.02.2023.

14. It is recorded in the RMB that the disease of Primary Hypertension

was aggravated by the military service. The opinion of the RMB is extracted as under: -

Additionally, the RMB categorically records in response to the question no. 2 (a) and (b), that the disability is not attributable or aggravated to the officers own negligence or misconduct at internal page 8 of RMB 7. It is thus evident that the disease was indisputably contracted during military service and the Respondent is not responsible for any negligence leading to the causation of the said disease.

15. The Petitioners have raised the issue of non-entitlement of the

disability element of the pension on the ground that the competent authorities have held that the disease is NANA by the military service. The opinion rendered by the ACFA in the First Appeal dated 25.09.2023 is extracted as under: -

Page 217 of the paper book

In our considered opinion, the decision of the Appellate Committee fails to record any cogent reasons for differing with the RMB and opining

**NANA.**

16. The Petitioners in the writ petition have contended that the disease is

NANA since the competent authority, after examining the reasoning given by the RMB, determined that the disease was constitutional in origin and not directly caused by service- related stress. We are unable to accept the said contention, as the submission of the Petitioners that the disease was constitutional in origin is a bare assertion as no causative factors leading to the said conclusion have been set out in the petition. Similarly, no grounds for differing with the RMB are set out in the decision of ACFA or in this petition. We are also of the considered opinion that the opinion of the RMB dated 19.12.2022 could not have been overruled by the administrative authority of the Petitioners, without holding physical medical examination by a Review Medical Board. [Re: Ex Sapper Mohinder Singh v. Union of

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India<sup>8</sup>]

17. We also note that in exercise of the certiorari jurisdiction of this Court

over the decision of the Tribunal, the limited parameters of the jurisdiction are delineated in the judgment of Syed Yakoob v. K.S. Radhakrishnan<sup>9</sup>. We have examined the impugned order within the said parameters and find no ground to interfere with the impugned order.

18. Additionally, we note that the impugned order is dated 15.10.2024,



and the petition has been filed after more than two [2] years, without any reasonable explanation for such a delay. The Petitioners were obligated to comply with the impugned order of the Tribunal within four [4] months, and it appears from the record that the Petitioners have not complied with the said order. The Petitioners ought to have approached this Court immediately and cannot elect to sleep over compliance with the impugned order of the Tribunal. Such conduct of the Petitioners shows abject disregard for the legal process. We hold that the filing of this petition is also grossly barred by delay and laches, and ought to be dismissed on this ground alone. The ground set out in the application seeking condonation of 360 days delay in approaching this Court fails to justify the delay. Accordingly, CM APPL. Nevertheless, we have decided the petition on merits to avoid any further delay by the Petitioners in complying with the impugned order.

19. In view of the aforesaid findings, the Petitioners challenge to the

grant of disability element of pension to the Respondent, is without any

Civil Appeal No. 164 of 1993 dated 14.01.1993, at paragraph 4.

(1963) SSC OnLine SC 24 at paragraph 7 and 8

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merits. The Petitioners are directed to comply with the order of the Tribunal without any further delay.

20. The Court Master is directed to take the above referred, unreported

judgement, Ex Sapper Mohinder Singh v. Union of India (supra) on record.

21. We therefore find no merit in this petition; the petition is dismissed.

Pending application, if any, stands dismissed. No costs.

**MANMEET PRITAM SINGH ARORA, J**

**V. KAMESWAR RAO, J**

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