

RESERVED

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
GUWAHATI**

Original Application No. 09 of 2025

Friday, this the 20th day of March, 2026

Hon'ble Mr. Justice SK Gupta, Member (J)
Hon'ble Lt Gen CP Mohanty, Member (A)

Service No. JC-663722Y Ex Nb Sub Kaushal Kishori Giri,
Goswami Colony, House No 213, near Dal Mill, P.O.-Udyan
Bihar, Distt-Kamrup (M), Assam, Pin-781171.

.... Applicant

Ld. Counsel for the: **Shri AR Tahbildar, Advocate.**
Applicant

Versus

1. The Union of India, Represented by the Secretary,
Department of Ex-Servicemen Welfare, 5-A, South
Block, New Delhi.
2. The Officer-in-Charge, ASC Record (South), Bangalore,
Karnataka, Pin-560007.
3. The Addl Directorate General of Personnel Services,
Adjutant General's Branch, Integrated HQ of MoD
(Army), MP-6 (C), New Delhi.
4. The Principal Chief of Defence Accounts (Pension),
Draupadi Ghat, Allahabad-211014.

... Respondents

Ld. Counsel for the: **Ms Depanjali Bora, Advocate**
Respondents. Central Govt Counsel.



ORDER

1. Aggrieved by the impugned rejection order dated 09.07.2013 (Annexure-G to O.A.) denying him disability element of pension, the applicant has filed the instant O.A. seeking the following reliefs:

- (I) *To quash and set aside the impugned order No B/38046A/410/2012/AG/PS-4 (2nd appeal) dated 9th July, 2013 (Annexure-G/page 44) issued by the Director, AG/PS-4 (2nd Appeal) for Adjutant General wherein and whereby applicant's 2nd appeal was rejected holding applicant's disabilities to be neither attributable to nor aggravated by the military service.*
- (II) *To direct the authorities to grant disability element of pension with rounding off benefit @ 50% for life in terms of the composite assessment made by the Release Medical Board to the applicant with arrear and interest thereon.*

And

To pass such other or further order(s) as your Lordships may deem fit and proper.

2. The facts of the case, in brief, are that the applicant was enrolled in the Indian Army on 22.04.1983 and was discharged from service on 31.03.2010, in low medical category S1H1A1P2(P)A1 after completion of terms of engagement. The Release Medical Board (RMB) has assessed his disability 'Primary Hypertension' @ 30% for life neither attributable to nor aggravated by military service (NANA). Disability element of pension claim was rejected and communicated to the applicant vide letter dated 10.05.2010. Thereafter, first appeal preferred by the applicant was also rejected

vide order dated 24.12.2010 with an advice to prefer 2nd appeal within six months. Aggrieved with rejection of 1st appeal, he preferred 2nd appeal dated 18.10.2011 which too was rejected vide order dated 09.07.2012. It is in this perspective that this O.A. has been filed for grant of disability element of pension duly rounded off to 50%.

3. Learned Counsel for the applicant submitted that the applicant was medically fit when he was enrolled in service and any disability not recorded at the time of recruitment should be presumed to have been caused subsequently. The action of the respondents in denying disability element of pension to the applicant is illegal. In this regard, he relied on the decision of the Hon'ble Supreme Court in the case of ***Dharamvir Singh v. Union of India & Others*** (2013) 7 SCC 316, and submitted that for the purpose of determining attributability of the disease to military service, what is material is whether the disability was detected during the initial enrolment medical board and if no disability was detected at that time, then it is to be presumed that the disability arose while in service, therefore, the disability of the applicant is to be considered as aggravated by military service and he is entitled to get disability element of pension @ 30% for life and the same is to be broad banded to 50% for life.

4. On the other hand, learned counsel for the respondents submitted that though the RMB has assessed the disability of the applicant @ 30% for life, it opined that the disability is neither attributable to nor aggravated by military service (NANA). As such his claim for disability element of pension has rightly been rejected by the respondents. He submitted that the instant O.A. does not have any merit and the same is liable to be dismissed.

5. Having heard the learned counsel for both the parties and perusal of the records, the only question that needs to be answered is, whether the disability of applicant is attributable to or aggravated by military service?

6. We have noted that the only reason for which the disability 'Primary Hypertension' has been opined as NANA by the RMB and rejection/communication orders dated 10.05.2010, 24.12.2010 and 09.07.2013 is that the disease is not related to military as it was originated in peace area. However, on further scrutiny, we have observed that the applicant's disability was first detected on 15.04.2009 i.e. after completion of 26 years of service. Additionally, we do not agree with the view that military stations in peace area do not have any stress and strain of military service. Hence, we are



inclined to give benefit of doubt in favour of the applicant. Thus, we are of the considered opinion that 'Primary Hypertension' of applicant is to be considered as aggravated by military service in line with the law settled on this matter by the Hon'ble Supreme Court in the case of **Dharamvir Singh** (supra). Additionally, the applicant will also be eligible for the benefit of rounding off to 50%, in terms of the decision of Hon'ble Supreme Court in **Union of India and others v. Ram Avtar** (Civil Appeal No 418 of 2012 dated 10.12.2014).

7. Resultantly, the O.A is **allowed**. The impugned orders are set aside. The applicant's disability 'Primary Hypertension' is to be considered as aggravated by military service. The applicant is entitled to disability element @ 30% for life, which shall be rounded off to 50% for life from the date of his discharge from service. However, due to law of limitations settled by the Hon'ble Supreme Court in the case of **Shiv Dass v. Union of India and Ors**, (2007) 3 SLR 445), the arrears of disability element of pension will be restricted to three years before the date of filing of the instant O.A. The date of filing of this O.A is 30.07.2025. This order is to be

implemented by the respondents within four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum.

8. No order as to costs.

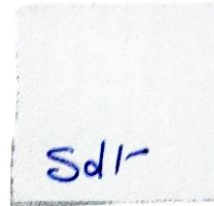
9. Miscellaneous application (s), pending if any, shall stand disposed off.



(Lt Gen CP Mohanty)
Member (A)

Dated: 20.03.2026

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(Justice SK Gupta)
Member (J)