

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

Original Application No. 30 of 2024

Friday, this the 20th day of March, 20206

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

Service No. 4367591W Ex-Hav NL Ringo Anal, Village-
Kanankhu, P.O.-Chandel, District-Chandel, State-Manipur.

.... Applicant

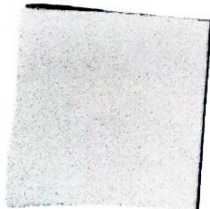
Ld. Counsel for the: **Shri Anup Ranjan Tahbildar**, Advocate.
Applicant

Versus

1. Union of India, Represented by the Secretary, Ministry of Defence, Sena Bhawan, New Delhi-1
2. The Officer-in-Charge, Records, The Assam Regiment, Shillong, PIN-900332, C/o 99 APO.
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 Deepanjali Borah**, Advocate
Respondents. Central Govt Counsel.



ORDER

1. Being aggrieved by the impugned order dated 18.05.2023 (Annexure-E of 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 4030/4367591/W/Pen (DP) dated 18th May, 2023 (Annexure-E/page 34) passed by the Senior Record Officer for OIC Records wherein and whereby his claim for disability element of pension was rejected on the ground that since his disabilities are opined by the Medical Authority to be neither attributable to nor aggravated by military service.*

(ii) *To hold applicant's disability of 'Primary Hypertension' as attributable to and aggravated by military service and thereafter direct the authorities to grant disability element of pension with rounding off benefit @ 50% for life with arrear and interest thereon from the date of discharge and/or 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 Army on 20.01.1999 and was discharged from service on 31.10.2023 (AN), in low medical category S2(P)H1A1P2(P)E1, after having served for more than 24 years service. The Release Medical Board (RMB) had assessed his

disabilities 'Primary hypertension (ICD Code-110) and Obsessive Compulsive Disorder (ICD Code F42-9) @ 58% for life neither attributable to nor aggravated by military service (NANA). Disability element of pension claim was rejected vide order dated 18.05.2023. Thereafter, first appeal preferred by the applicant seems to have not been decided as yet, hence this O.A. has been filed.

3. Learned Counsel for the applicant submitted that the applicant was medically fit when he was enrolled in the Army 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 and arbitrary. In this regard during the course of hearing, he relied upon 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/disability 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 service and he is entitled to get disability element of pension duly rounded off.

4. On the other hand, learned counsel for the respondents submitted that though the RMB has assessed the disabilities of the applicant @ 58% for life, it opined that the disabilities are 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 to be dismissed.

5. Having heard the learned counsel for both the parties and perused 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. It is worthwhile to mention that that the RMB has assessed his disabilities 'Primary Hypertension and Obsessive Compulsive Disorder' @ 30% and 40% respectively but the composite assessment of both the disabilities has been assessed @ 58% for life. Having perused the prayer of the applicant, we find that the applicant has restricted his prayer for grant of disability element of pension for the disability 'Primary Hypertension' as mentioned in prayer (ii).

7. We have noted that the only reason for which the disability 'Primary Hypertension' has been opined as NANA by the RMB and rejection order dated 18.05.2023 is that the disease/disability is not

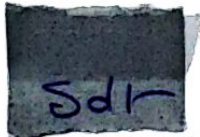
related to military service as it originated in peace area. However, on further scrutiny, we have observed that the applicant's disability was first detected in the year 2020 i.e. after completion of 21 years of service. Additionally, we do not agree with the view that military stations in peace area 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 the 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 the Hon'ble Supreme Court in *Union of India and others v. Ram Avtar* (Civil Appeal No 418 of 2012 decided on 10.12.2014).

10. Resultantly, the O.A is allowed. The impugned order dated 18.05.2023 passed by the respondents is set aside. The applicant's disability 'Primary Hypertension' is to be considered as aggravated by military service. The applicant is entitled to disability element of pension @ 30% for life, which shall be rounded off to 50% for life from the date of his discharge from service. The respondents are directed to grant disability element of pension to the applicant @ 50% for life w.e.f. 01.02.2023 along with arrears

within a period of four months from the date of receipt of a certified copy of this order, failing which interest @ 8% shall be payable.

11. No order as to costs.

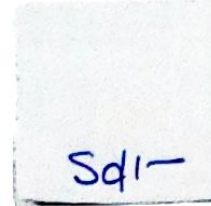
12. Miscellaneous application(s), pending, if any, shall be treated to have been disposed off.



(Lt Gen CP Mohanty)
Member (A)

Dated: 20.03.2026

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(Justice SK Gupta)
Member (J)