6900/A

FREE COPY OF ORDER
DATED..06.03.../2023

5

IN THE ARMED FORCES TRIBUNAL, CHANDIGARH BENCH

(OA No 807 of 2022)

SS-31185N Capt Navneet Singh Sindhu (Retd), son of Col Balwant Singh, aged about 63 years, House No- 18, Defence Colony, Hisar, Haryana-125 001

.....Applicant

Vs

1. Union of India through Secretary to Govt of India, Ministry of Defence, South Block, New Delhi – 110 011.
2. Additional Director General Personnel Services, Adjutant General's Branch, Integrated HQ of Ministry of Defence (Army), DHQ PO, New Delhi – 110 001.
3. Principal Controller of Defence Accounts (Pensions), Draupadi Ghat, Allahabad Uttar Pradesh-211014.

.....Respondents

Application under Section 14 of the AFT Act, 2007

PREPARED BY :- 12/07/23

CHECKED BY :- 12/7/23

"FREE COPY UNDER RULE 23 OF AFT (PROCEDURE) RULES 2008"

CONSULTANT (SECTION OFFICER)

ARMED FORCES TRIBUNAL, REGIONAL BENCH
CHANDIGARH AT CHANDIMANDIR

-.-

OA 802 of 2022

Monday, the 06th day of Mar, 2023

CORAM:
HON'BLE MR JUSTICE DHARAM CHAND CHAUDHARY, MEMBER (J)
HON'BLE LT GEN (Dr) RANBIR SINGH, MEMBER (A)

Navneet Singh Sindhu ..... **Applicant**

(By Navdeep Singh, Advocate)

Versus

Union of India and others ..... **Respondents**

(By Sarika Gupta, Sr PC)

-.-

ORDER

Justice Dharam Chand Chaudhary Member (J) Oral:

1. By means of the present application, following relief (s) have been sought to be granted:-

   a) ***to grant the applicant disability pension w.e.f. 02.05.2008 by setting aside that part of Medical Board proceedings whereby the disability incurred upon by him in peace area has been held to be neither attributable nor aggravated by military service ;***
   b) ***to extend the benefits of rounding of by taking the disability @ 50% against 20% for life;***
   c) ***to grant any other & further relief as this Tribunal deem fit and proper in the given facts and circumstances of this case.***

2. The facts in a nutshell are that the applicant Capt Navneet Singh (Retd) was commissioned as a "***Short Service Commissioned Officer***" in the Indian Army on **26.08.1982** and released from service on **17.04.1988** after completion of his term of engagement in low medical category for the disability "***LABILE HPERTENSION***". Before his

release from service, despite being in low medical category his Release Medical Board was not conducted to assess the extent of his disability. While the Respondents kept communicating with each other for conduct of the medical board, a proper board was finally conducted only on directions of this Tribunal in the first round of litigation. The medical board assessed his disability as 20% for life but declared the same as "neither attributable to, nor aggravated by military service", thereby resulting in the rejection of his claim for grant of disability pension. The applicant then filed first appeal against the rejection of his claim qua disability pension which was rejected on 05.09.2019. Thereafter, the applicant filed second appeal against rejection of his first appeal, which too was rejected. Feeling aggrieved and dissatisfied with the rejection of his disability pension claim, he preferred this application for the redressal of his grievances in this second round of litigation.

3. It is worth noticing here that during the course of his service, the applicant extensively served in field and operational areas of Ladakh region in J&K and also in the State of Punjab during the peak of terrorism. He was also deployed on border outposts as becomes clear from a perusal of Annexure A-11 dated 18-02-2021 which is a document issued by the Respondents.

4. The respondents when put to notice have contested and resisted the claim of the applicant on the grounds *inter alia* that the disability in the case of the applicant is "neither attributable to nor aggravated by military service", hence his case for the grant of disability pension has been rightly rejected. Its onset is also stated to be in peace area, although the said

statement is contrary to the record of the Respondents themselves (Annexure A-11).

5 Learned counsel representing the applicant has submitted that the prayers made in this application are squarely covered in his favour by series of decision rendered by the Hon'ble Supreme Court, including ***Dharamvir Singh Vs Union of India*** (2013) 7 SCC 316, ***Three Judge Bench decision*** in Civil Appeal 2337/2009 ***Union of India Vs Chander Pal*** decided on 18-09-2013, ***Union of India Vs Rajbir Singh*** (2015) 12 SCC 264, ***Union of India Vs Angad Singh Titaria*** (2015) 12 SCC 257, ***Union of India Vs Manjeet Singh*** (2015) 12 SCC 275, Civil Appeal 4409/2011 ***Ex Hav Mani Ram Bhaira Vs Union of India*** decided on 11-02-2016, Civil Appeal 1695/2016 ***Satwinder Singh Vs Union of India*** decided on 11-02-2016 and ***Ex Gnr Laxmanram Poonia Vs Union of India*** (2017) 4 SCC 697.

6. The present is a case where the disability ***LABILE HYPERTENSION*** assessed by the Release Medical Board is 20% for life. The reasons / cause for rejecting the attributability/aggravation of the disability read as follows:

> ***"Onset of ID: Jan 1987 while the serving in Firozpur (Peace). Hence there is no close time association with Fd/HAA/CI Ope tenure. Hence ID conceded as neither attributable nor aggravated by military service as per Para 43, Chapter VI, Guide to Medical Officers (Mil Pension) 2008 amendment."***

7. As per findings of Appellate Committee on First appeal, the following are the reasons for rejection of the claim for disability pension:

"ID is an idiopathic disorder with a strong genetic preponderance and is per se not attributable to military service. Aggravation may be conceded if onset occurs in FD/CI Ops/HAA. In the instant case, onset ID was in peace station. Hence ID is conceded as neither attributable to nor aggravated by military service in terms of Para 43, Chapter VI, GMO 2002, amendment 2008."

8. The opinion of the Second Appellate Committee is as follows:

"Hypertension develops due to complex interlay of genetic, metabolic and environmental factors, and is *per se* not attributable to service. However, aggravation is conceded if the onset occurs while serving in Fd/Cl Ops/HAA/Prolonged afloat service. In the instant case, onset of the ID occurred while the veteran offr was posted in peace station, as per his authenticated posting profile. Hence, Labile Hypertension is conceded as neither attributable to nor aggravated by service, in terms of Para 43, Chap VI GMO 2003, amendment 2008."

9. It is thus seen that the Second Appellate Committee has affirmed the order passed by first Appellate Committee on the same ground that the onset of the disability incurred upon by the applicant is in peace area and that the aggravation may have been conceded had its onset would have occurred in field area / counter Insurgency area, Operational / High Altitude area. Hence, the same has been declared as neither attributable to nor aggravated by military service. As noted in preceding paragraphs, the same is, however, against the records of the applicant's service (Annexure A-11) which show that he had extensively served in field areas in close proximity to the development of his disability.

10. Even otherwise, this Bench, following the law laid down by the Hon'ble Supreme Court, in a catena of judgments has held that "the onset of disabilities incurred upon by a soldier in peace area is hardly of any help to the case of the respondents for the reasons that normally the same are not incurred upon in a fortnight but diagnosed after the applicant having rendered service in the Army for years together. Above all, in Army service a soldier is under stress and strain due to variety of reasons i.e. climatic, geographic and being away from the company of family members, hence the origin of the disability in peace area or hard area is not of much consequence." Similar is the ratio of the order passed by this Regional Bench, in ***OA 3211 of 2019*** titled as ***Ram Kishan versus Union of India & others*** decided on **12.01.2023.**

11. The Respondents have argued that disabilities like hypertension, heart diseases etc are such disabilities which cannot be affected by stress and strain of military service conditions. Now if coming to Annexure A-8, **Entitlement Rules for Casualty Pensionary Awards, 1982**, applicable to the applicant in respect of various diseases, some rules are particularly relevant for the purpose of the adjudication of the present controversy.

Rule 14 is reproduced hereunder:

In respect of diseases, the following rule will be observed:-
(a) Cases in which it is established that conditions of Military Service did not determine or contribute to the onset of the disease but influenced the subsequent courses of the disease, will fall for acceptance on the basis of aggravation.

(b) 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 military service. 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.

(c) If a disease is accepted as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service.

12. Rule 14 is qualified further by **Rule 15** which is also reproduced hereunder:

> ***The onset and progress of some disease are affected by environmental factors related to service conditions, dietary compulsions, exposure to noise, physical and mental stress and strain. Disease due to infection arising in service, will merit an entitlement of attributability. Nevertheless, attention must be given to the possibility of pre-service history of such conditions which, if proved could rule out entitlement of attributability but would require consideration regarding aggravation. For clinical description of common disease, reference shall be made to the Guide to Medical Officers (Military Pensions) 1980, as amended from time to time. <u>The classification of diseases affected by environmental factors in service is given in Annexure III to these rules.</u>***

Clause (B) of ANNEXURE III TO APPENDIX II **<u>"Classification of Diseases"</u>** of the Rules *ibid* reads as under:

B **<u>DISEASE AFFECTED BY STRESS AND STRAIN</u>**:

1. Psychosis and Psychoneurosis
2. **<u>Hypertension (BP)</u>**
3. Pulmonary Tuberculosis

4. Pulmonary Tuberculosis with pleural effusion
5. Tuberculosis (Non-pulmonary)
6. Mitral Stenosis
7. Pericaditis and adherent pericardium
8. Endocarditis
9. Sub-acute bacterial endocarditis including infective endocarditis
10. Myocarditis (acute and chronic)
11. Valvular disease
12. Myocardial infarction and other forms of IHD
13. Cerebral hemorrhage and deerebral infarction
14. Peptic ulcer

(Emphasis supplied)

13. The disability of Hypertension from which the applicant is suffering is clearly listed in Entitlement Rules, reproduced hereinabove, as one which is affected by "stress and strain of service". The claim of the Respondents that Hypertension is a lifestyle disease which is not affected by stress and strain of military service is, hence, liable to be discarded since the rules themselves list it as affected by service conditions. Moreover, the said disability is also covered by the judgment of the Hon'ble Supreme Court in the bunch matter led by ***Union of India Vs Rajbir Singh*** (2015) 12 SCC 264 in which Hypertension with many other disabilities have been taken into account in a tabulated form in the judgment.

14. The same aspect was also deliberated upon by ***Raksha Mantri's Committee of Experts*** (2015) while making a reference to Rule 423 of the Regulations for Medical Services in Armed Forces (RMSAF) and **Annexure**

III to the Entitlement Rules, reproduced supra while drawing distinction between ***peace*** or ***field*** area observed as follows in its report:

> *"Rule 423 of the Regulations for Medical Services in the Armed Forces (RMSAF) ordains that service in peace or field has no linkage whatsoever with attributability of disabilities to military service but still disabilities are regularly treated NANA on the pretext that the disability had arisen in a "peace area". Further Annexure III to the Entitlement Rules contains a list of disabilities that are "affected by stress and strain of service" and which includes the most commonly found disabilities such as Hypertension, Psychosis and Neurosis etc, still even such scheduled disabilities are being routinely incorrectly declared as 'unrelated to service" by the establishment....*
>
> *.....The problem emanates from an interplay of lack of correct application of rules and law from a multitude of authorities including the office of DGAFMS which had locally issued instructions and DO letters having no sanctity in law, military medical boards as well as Finance elements.* ***Though the fact that soldiers face an inherent stress and strain in their daily routines in military life, in peace as well as field, is well recognized in all democracies and is also recognized by our rules and consistent rulings of Constitutional Courts, that is, our High Courts and the Supreme Court, the resistance to the rule of law continues thereby forcing disabled veterans into litigation. It is also observed that many common disabilities such as hypertension, seizures/epilepsy, heart diseases, psychosis, neurosis etc which are listed in the Schedule of the Entitlement Rules as ones 'affected by stress and strain of service' are also routinely brushed aside as having been caused during 'peace' or 'not related to service' by directly contravening the provisions of the rules.*** *We are also constrained to observe that heart related disabilities are, even in this time and age, being adjudicated based on the '14 Days Charter of Duties', that is, the activities carried out by the person during the last 14 days from the onset of the disability, whereas even common knowledge dictates that such disabilities arise over a long period of time and not suddenly. The 14 Days Charter of Duties therefore has no logical nexus with attributability / aggravation.....*

....While the world has moved much ahead, as explained above, in India many disabled soldiers are still denied disability benefits on hyper-technical reasons. This is in direct contravention of the Rules as explained above which provide that unless rebutted in writing as to how the disability was such that could not have been detected at the time of entry into service, all disabilities arising in service are to be treated/deemed as service-related irrespective of whether the disabilities occur in peace or field areas. ***When Courts and Tribunals correctly interpret rules and direct the Services HQ/MoD to grant benefits, the latter are quick to challenge such decisions in the Supreme Court on the pretext of 'contravention of Government policy' forcing poor disabled soldiers into litigation till the highest Court of the land. It is important to realize that there is inherent stress and strain in military service coupled with the fact that a person stays away from family during most of his/her length of service in a regimented lifestyle under a strict disciplinary code which is recognized all over the world and attributability or aggravation need only be refused in cases of gross negligence, gross misconduct or intoxication since a presumption operates under the rules that all disabilities are affected and at least aggravated by stress and strain of service.*** *In all democracies, disabilities arising in service or during authorized leave are considered as "attributable or aggravated by military service".*

15. The crux of the report (*ibid*) reproduced above as such is that onset of a disability in peace or field area hardly make any difference in the life of a soldier who is 24 hours x 365 days on call, sometime under the shadow of gun, under a strict disciplinary code mostly away from his family in a strictly regimented routine. Therefore, the practice to deny benefit of disability on the ground that onset of disability was in peace area has been deprecated not only by the Hon'ble Apex Court but also Entitlement Rules and Para 2.2.1 of the report of ***Raksha Mantri's Committee of Experts***, 2015 constituted for review of service and pension matters including potential disputes, minimizing

litigation and strengthening Institutional Mechanisms related to redressal of grievances.

16. How a solider has to be considered *vis-a-vis* a ordinary person, the report tells us further, which reads as follows:

> *"While dealing with disabilities of military personnel, the much argued comparison with an ordinary person is not based on a sound footing. There are times when it is remarked that such a disease may also have arisen had the particular person not been in the Army. The Committee notes that there can be no comparison of the inherent stress and strain of military life with a civilian employee or others and what may be 'lifestyle diseases' for a common person on the street may be aggravated by stress and strain in case of military personnel. A person who is 24 hours x 365 days on call, sometimes under the shadow of gun, under a strict disciplinary code mostly away from his family, in a strictly regimented routine, cannot be simplistically compared with a civilian employee.* ***The nature of military service denies to all military personnel a commune living with his family or in his hometown, the enjoyment of gazetted holidays and even the enjoyment of normal day to day freedoms such as the very basic liberties of life which are taken by all citizens for granted. Even in a peace area, a member of the military does not have the freedom enjoyed by private citizens, even for something as simple as going to the market, permission is required from higher authorities. Life is highly regulated by order including for matters such as breakfast, lunch, dinner or even going to the toilet or bathroom. When a person is not with his or her family, even common ailments such as hypertension or IHD or minor psychiatric illnesses or psycho-somatic disorders are bound to get aggravated by seemingly insignificant incidents at the home or domestic front such as non-performance of children in school, property disputes, red-tapism in other spheres, family problems etc and such practical aspects of life in general cannot be ignored by the system by taking a highly technical and impractical approach of stating reasons such as 'posted in peace area' which have no link with practical on-ground realities. Even non-fulfilment of sexual needs of soldiers by virtue of being away from the spouse could contribute to rise in stress levels, and all such reasons are being conveniently ignored and***

> ***the stress and strain of military life is wrongly being compared with counterparts in other professions.*** *Most of the said disabilities are also scheduled in the rules as ones 'affected by stress and strain of service' and hence personal opinions such as the commonality of such disabilities in 'civil life' have no sanctity in the eyes of law which is supported by rules and already adjudicated as such by the Supreme Court of India".*

17. The report even takes note of the life span of a soldier ***vis-a-vis*** civilian. As in the opinion of Experts, it has been observed that the life span of solider is lesser than civilian employees which points directly to the fact that stress and strain of military service affects all soldiers and the said proposition is hardly debatable.

18. With respect to psychiatric disorders, the Committee has stated that the blame cannot be put on "domestic" factors and has elaborated this aspect further as under:

> *"It is observed that even psychiatric disorders are quickly blamed on "domestic factors" not comprehending the basic fact that such "domestic" reasons have a direct linkage with service conditions. For example, if a person is facing any domestic issue at home as explained in the preceding paragraphs (including property dispute, education of children, lack of support to family or elderly parents etc) which may anyway be accentuated by the inherently indifferent attitude of civil administration towards soldiers' requirements in many instances, the very fact that he/she is away from his family for most part of the year increases stress levels thereby aggravating such disabilities since he cannot attend to such domestic commitments the way he could have, had he been living with his family. The simple question that needs to be put to ourselves is that would he/she have had the same stress levels had he/she been living with family? The answer would be in the negative. Separation from family, a hallmark of military life, itself raises stress levels and the direct reason for the*

same is military service and hence the organization cannot wash its hands off such disabilities by terming the same as due to 'domestic reasons'.

19. With respect to "stress and strain" in peace areas, the report further elaborates:

"Moreover on the subject of service in peace vis-a-vis field areas, it is observed that the following important mention in Paragraph 47 in the Guide to Medical Officers, 2002, was eliminated in the 2008 edition, regressively, and apparently without any reference to any scientific research in the footnotes:

"...The magnitude of physical activity and emotional stress is no less in peace area. Tough work schedules and mounting pressure of work during peace time compounded by pressure of duties, maintenance of law and order, fighting counter insurgency and low intensity war in deceptively peaceful areas and aid to civilians in the event of natural calamities have increased the stress and strain of service manifold. Hence no clear cut distinction can be drawn between service in peace areas and field areas taking into account quantum of work, mental stress and responsibility involved. In such cases, aggravation due to service should be examined in favour of the individual...."

20. The committee on the basis of the law laid down by the Hon'ble Apex Court and various judicial pronouncements has observed that the attributability and aggravation of a disability incurred during military service is the rule, and the same being 'neither attributable to nor aggravated' by such service an exception. This part of the report is also reproduced here as under:

"While the medical authorities have, as stated above, thankfully already realized the fact that in accordance with rules and the law laid down by the Supreme Court, grant of

*'attributability/aggravation' is the rule rather than the exception unless a link is evident with a pre-existing condition or a person's own misconduct, financial authorities are still resisting progressive change in this regard. As harsh as it might sound, the opinion of the financial bodies or accountants cannot override medical opinion or law laid down by the apex Court and the job of finance instrumentalities is not to interpret medical conditions by going against the law as laid down, but only to render inputs on financial implications where required. The length and breadth of the charter of operation available to financial authorities is amplified in detail in another part of the instant report (See Para 2.4.3). Instances have been pointed out to us where the finance authorities have cited locally issued instructions to reject disability claims by ignoring actual rules, declarations of medical authorities, legal advice and even Supreme Court decisions. We are surprised to note that when even in a meeting with the Hon'ble Raksha Mantri positive statements have been made regarding progressive grant of disability benefits in terms of Supreme Court decisions, and when the Services HQ, the DESW, MoD, the MSAC and the office of DGAFMS have also endorsed the view which is anyway the law declared by Constitutional Courts, the financial entities are still opposing the same and indulging in hyper-technical surgical interpretation in this regard and that the appeals are still being filed and cases contested in Courts and Tribunals. **We are sorry to observe but the political will of the Hon'ble Prime Minster and the Raksha Mantri, the legal opinion of the Legal Advisor (Defence) and the endorsement of the executive authorities thereon with the overarching law declared by our High Courts and the Supreme Court, cannot be held hostage to the personal opinion of financial authorities who have no right to comment on the merits of disabilities but are only supposed to release and calculate amounts as ordained by law. It is surprising that once even the apex medical body, that is, the MSAC has itself conceded that medically speaking almost all such disabilities are affected by military service, which is also a universally accepted military norm, then why should other authorities be allowed to override the said reality. When it is also accepted by all stakeholders that life expectancy of members of the military is much lower than civilian employees, then there should remain no controversy on the effect of military service on the health of individuals. In any case, such instances are contemptuous to the decisions of the Supreme Court and we must remind here that under Article 144 of the Constitution, all authorities are to bow down to the majesty of the law laid down by the Supreme Court and act in the aid of the Supreme Court**.....

> ....***<u>The health of our troops, our responsibility towards our veterans, the lesser life expectancy of our soldiers and veterans, cannot be measured in monetary terms or by denying them minor amounts which they are fully entitled to under the rules.</u>*** *Even as back as in 1982, the Constitution Bench of the Supreme Court in D S Nakara's case had endorsed the securing of socio-economic justice in a rapidly growing and flourishing State which can afford such benefits which are anyway admissible under law. In any case, all parties are bound by the law laid down by the Supreme Court and dissenting personal opinions have no legal sanctity in view of the settled law as per decisions mentioned in the preceding paragraphs, the practical realities and also the statements of the highest of political executive regarding the stress and strain of military life.*

(Emphasis supplied)

21. It is seen that the above quoted portions of the report criticizes the role of the functionaries such as financial authorities in getting the orders of the Hon'ble Supreme Court, Armed Forces Tribunals / other courts implemented. As a matter of fact the Entitlement Rules discussed herein above and also the Report submitted by ***Raksha Mantri's Committee of Experts*** are based upon legal principles settled by the Hon'ble Apex Court in the judgments herein below which have also been mentioned in the opening part of this order:-

(i) ***Dharamvir Singh Vs Union of India*** (2013) 7 SCC 316

(ii) **Three Judge Bench decision** in Civil Appeal 2337/2009 ***Union of India Vs Chander Pal*** decided on 18-09-2013

(iii) ***Union of India Vs Rajbir Singh*** 2(2015) 12 SCC 264

(iv) ***Union of India Vs Angad Singh Titaria*** (2015) 12 SCC 257

(v) ***Union of India Vs Manjeet Singh*** (2015) 12 SCC 275

(vi) Civil Appeal 4409/2011 ***Ex Hav Mani Ram Bhaira vs Union of India*** decided on 11-02-2016

(vii) Civil Appeal 1695/2016 ***Satwinder Singh Vs Union of India*** decided on 11-02-2016

(viii) ***Ex Gnr Laxmanram Poonia Vs Union of India*** (2017) 4 SCC 697

22. The following observations of the Hon'ble Supreme Court in some of the decisions mentioned above, merits reproduction:

23. In ***Dharamvir's*** case (supra), wherein the disability had been declared 'neither attributable to, nor aggravated by military service' by the medical board, the Hon'ble Supreme Court went into detail of various applicable rules and also the case law cited by the Respondents. The Hon'ble Apex Court observed the following:

> ***"29.1. Disability pension to be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).***
>
> ***29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].***
>
> ***29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to***

derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).

29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)].

29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an a individual's discharge or death will be deemed to have arisen in service [Rule 14(b).

29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and

29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions).2002 "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27).

Xxxx xxxx xxxxx xxxxx

" 31. .....In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by hereditary he is suffering from such disease. In absence of any note in the service record at the time of acceptance of joining of appellant it was incumbent on the part of the Medical Board to call for records and look into the same before coming to an opinion that the disease could not have been detected on medical examination prior to the acceptance for military service, but nothing is on the record to suggest that any such record was called for by the Medical Board

or looked into it and no reasons have been recorded in writing to come to the conclusion that the disability is not due to military service...

33. ...Inspite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In absence of any evidence on record to show that the appellant was suffering from "Generalised seizure (Epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service...

34. ...As per Rule 423(a) of 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 paragraph 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..."

24 Now coming to the law laid down by Hon'ble Supreme Court in ***Sukhvinder Singh versus Union of India & others (2014) 14 Supreme Court Cases 364***. The same reads as follows:-

> ***11. We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the armed forces; any other conclusion would tantamount to granting a premium to the Recruitment Medical Board for their own negligence.***
>
> **Secondly**, ***the morale of the armed forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined.***
>
> **Thirdly**, ***there appear to be no provisions authorizing the discharge or invaliding out of service where the disability is below twenty per cent and seems to us to be logically so.***
>
> **Fourthly**, ***wherever a member of the armed forces is invalided out of service, it perforce has to be assumed that his disability was found to be above twenty per cent.***
>
> **Fifthly**, ***as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty percent disability pension."***

25. Further, in ***Rajbir Singh's*** case (supra), the Hon'ble Supreme Court examined the entire proposition and as per tabulated information provided in the judgment, the soldiers therein were suffering from various diseases such as Generalised Seizures, Manic Episode, Hypertension, Neurosis, Diabetes etc and had been released in low medical category on discharge, invalidation or retirement. The Hon'ble Apex Court has discussed the Entitlement Rules for Casualty Pensionary Awards, 1982, the Regulations and held that the following are some of the diseases which ordinarily escape detection on enrolment: -

"11. *Reference may also be made at this stage to the guidelines set out in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 which set out the "Entitlement: General Principles", and the approach to be adopted in such cases. Paras 7, 8 and 9 of the said guidelines reads as under:-*

"7. Evidentiary value is attached to the record of a member's condition at the commencement of service, and such record has, therefore, to be accepted unless any different conclusion has been reached due to the inaccuracy of the record in a particular case or otherwise. Accordingly, if the disease leading to member's invalidation out of service or death while in service, was not noted in a medical report at the commencement of service, the inference would be that the disease arose during the period of member's military service. It may be that the inaccuracy or incompleteness of service record on entry in service was due to a non-disclosure of the essential facts by the member e.g. pre-enrolment history of an injury or disease like epilepsy, mental disorder, etc. It may also be that owing to latency or obscurity of the symptoms, a disability escaped detection on enrolment. Such lack of recognition may affect the medical categorisation of the member on enrolment and/or cause him to perform duties harmful to his condition. Again, there may occasionally be direct evidence of the contraction of a disability, otherwise than by service. In all such cases, though the disease cannot be considered to have been caused by service, the question of aggravation by subsequent service conditions will need examination.

The following are some of the diseases which ordinarily escape detection on enrolment:

(a) Certain congenital abnormalities which are latent and only discoverable on full investigations e.g. Congenital Defect of Spine, Spina bifida, Sacralisation,

(b) Certain familial and hereditary diseases e.g. Haemophilia, Congential Syphilis, Haemoglobinopathy,

(c) Certain diseases of the heart and blood vessels e.g. Coronary Atherosclerosis, Rheumatic Fever,

(d) Diseases which may be undetectable by physical examination on enrolment, unless adequate history is given at the time by the member e.g. Gastric and Duodenal Ulcers, Epilepsy, Mental Disorders, HIV Infections,

(e) Relapsing forms of mental disorders which have intervals of normality,

(f) Diseases which have periodic attacks e.g. Bronchial Asthma, Epilepsy, Csom, etc."

26 On placing reliance to the legal proposition settled in **para 29.1 to 29.7** of the judgment rendered in ***Dharamvir Singh's*** case cited ***supra***, it is further held in this judgment as under:

"14.The legal position as stated in Dharamvir Singh's case is, in our opinion, in tune with the Pension Regulations, the Entitlement Rules and the Guidelines issued to the Medical Officers. The essence of the rules, as seen earlier, is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into service if there is no note or record to the contrary made at the time of such entry. More importantly, in the event of his subsequent discharge from service on medical ground, any deterioration in his health is presumed to be due to military service. This necessarily implies that no sooner a member of the force is discharged on medical ground his entitlement to claim disability pension will arise unless of course the employer is in a position to rebut the presumption that the disability which he suffered was neither attributable to nor aggravated by military service.

15.From Rule 14(b) of the Entitlement Rules it is further clear that if the medical opinion were to hold that the disease suffered by the member of the Armed forces could not have been detected prior to acceptance for service, the Medical Board must state the reasons for saying so. Last but not the least is the fact that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability at times even before

they completed their tenure in the armed forces. There may indeed be cases, where the disease was wholly unrelated to military service, but, in order that denial of disability pension can be justified on that ground, it must be affirmatively proved that the disease had nothing to do with such service. The burden to establish such a disconnect would lie heavily upon the employer for otherwise the rules raise a presumption that the deterioration in the health of the member of the service is on account of military service or aggravated by it. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that he was upon proper physical and other tests found fit to serve in the army should rise as indeed the rules do provide for a presumption that he was disease-free at the time of his entry into service. That presumption continues till it is proved by the employer that the disease was neither attributable to nor aggravated by military service. For the employer to say so, the least that is required is a statement of reasons supporting that view. That we feel is the true essence of the rules which ought to be kept in view all the time while dealing with cases of disability pension".

16. .....Applying the above parameters to the cases at hand, we are of the view that each one of the respondents having been discharged from service on account of medical disease/disability, the disability must be presumed to have been arisen in the course of service which must, in the absence of any reason recorded by the Medical Board, be presumed to have been attributable to or aggravated by military service. There is admittedly neither any note in the service records of the respondents at the time of their entry into service nor have any reasons been recorded by the Medical Board to suggest that the disease which the member concerned was found to be suffering from could not have been detected at the time of his entry into service. The initial presumption that the respondents were all physically fit and free from any disease and in sound physical and mental condition at the time of their entry into service thus remains un-rebutted. Since the disability has in each case been assessed at more than 20%, their claim to disability pension could not have been repudiated by the appellants."

27. In *Angad Singh Titaria* (supra), the Union of India had challenged a decision of this Bench by stating that the individual,

who had retired on completion of his normal term of engagement, had only served in peace areas, hence suffered no stress and strain of service. The Apex Court after dealing with the stand of the Respondents upheld the decision of this Bench and observed as under:-

> *"14. Rule 14 of the Entitlement Rules stipulates how to determine whether disease shall be deemed to have arisen in service or not. It reads thus:*
>
> *14. Diseases.- In respect of diseases, the following rule will be observed*
>
> *(a) Cases in which it is established that conditions of military service did not determine or contribute to the onset of the disease but influenced the subsequent courses of the disease will fall for acceptance on the basis of aggravation.*
>
> *(b) 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 military service. 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.*
>
> *(c) If a disease is accepted as having arisen in service, it must also be established that the conditions of military service determined or contributed the onset of the disease and that the conditions were due to the circumstances of duty in military service*
>
> *Thus, a plain reading of sub-rule (b) of Rule 14 makes it abundantly clear 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 military service. However, if medical opinion holds that the disease could not have been detected at the time of enrolment, the disease will not be deemed to have arisen during service. In that case, it is also important that the medical opinion must contain valid reasons that the medical opinion must contain valid reasons that the disease is not attributable to service.*

15. xxxx xxxx xxxx xxxx

16. Here in the case on hand, the respondent was rendered ineligible for further promotion and thereby invalidated on the ground of his being in medical category A4 G4 (Permanent). In the absence of any specific note on record as to the respondent suffering from any disease prior to his joining the service, he is presumed to have been in sound physical and mental condition while entering service as per Rule 5(a) of the Entitlement Rules. The fact remains that the respondent was denied promotion on medical grounds and the deterioration in his health shall therefore be presumed to have been caused due to service in the light of Rule 5(b) of the Entitlement Rules. Moreover, simply recording a conclusion that the disability was not attributable to service, without giving a reason as to why the diseases are not deemed to be attributable to service, clearly shows lack of proper application of mind by the Medical Board. In such circumstances, we cannot uphold the view taken by the Medical Board.

17. Considering the facts and circumstances of the case in the light of the above discussed Rules and Regulations as well as settled principles of law enshrined by this Court in Dharamvir Singh v. Union of India and reiterated in Union of India v. Rajbir Singh, we are of the considered opinion that the Tribunal had not committed any error in awarding disability pension to the respondent for 60% disability from the date of his discharge along with 10% p.a. interest on the arrears. For all the reasons stated above, we do not find any merit in this appeal and the same stands dismissed without any order as to cosst."

28. In ***Manjeet Singh*** (supra), the Hon'ble Supreme Court again had the occasion of discussing the law in this regard and observed the following:

"20.2...Rule 14(b) in specific terms enjoins 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 his acceptance for Army service. The exception to this deduction is, only in the event of a medical opinion, supported by reasons to the effect that the disease could not have been detected on medical examination prior to acceptance for service whereupon it

would be deemed that the disease had not arisen during service..

20.4 The acknowledged primacy extended to the opinion of the Medical Board, and its views and recommendations thus assuredly would have to be subject to the hallowed objectives of the relevant provisions of the Rules, Regulations and the General Principles laden with the affirmative presumption in favour of the member of the service. Not only the manifest statutory intendment and the avowed purpose of these provisions cannot be disregarded, a realistic approach in deciphering the same has to be adopted...

26. ***Though as per Clause 2(a) of Part III, the Medical Board was required to express its views on the aspects as to whether the disabilities;***

(1) Were attributable to service during peace or under field service conditions;

(2) were aggravated thereby and remained to be so;

(3) Were not connected with service; and was required to state reasons with regard to each of the disabilities of which its opinion was based, it merely recorded in the negative vis-à-vis the first two and in the affirmative qua the third and abruptly concluded that both the disabilities were constitutional in nature and hence unconnected with Army service. No reason whatsoever was cited by the Medical Board in support of this conclusion. On the contrary, its deduction that the disabilities were unrelated to the Army service was founded only on the fact that those were constitutional in nature and no other consideration or reason whatsoever. That the opinion of the Medical Board lacks in reasons, has been conceded too by the learned counsel for the appellants.

27. Be that as it may, adverting inter alia to Rule 14(b) of the Rules, we are of the unhesitant opinion that reasons, that the diseases could not be detected on medical examination prior to acceptance in service, ought to have been obligatorily recorded by the Medical Board sans whereof, the respondent would be entitled to the benefit of the statutory inference that the same had been contracted during service or have been aggravated thereby. There is no reason forthcoming in the proceedings of the Medical Board, as to why his disabilities eventually adjudged to be constitutional or genetic in nature had escaped the notice of

the authorities concerned at the time of his acceptance for Army service. On a comprehensive consideration of the Regulations, Rules and the General Principles as applicable, the service profile of the respondent and the proceedings of the Medical Board, we are constrained to hold that he had been wrongly denied the benefit of disability pension. His tenure albeit short, during which he had to be frequently hospitalized does not irrefutably rule out the possibility, in absence of any reason recorded by the Medical Board that the disability even assumed to be constitutional or genetic, had not been induced or aggravated by the arduous military conditions. The requirement of recording reasons is not contingent on the duration of the Army service of the member thereof and is instead of peremptory nature, failing which the decision to board him out would be vitiated by an inexcusable infraction of the relevant statutory provisions. Having regard to the letter and spirit of the Regulations, Rules and the General Principles, the prevailing presumption in favour of a member of f the Army service boarded out on account of disability and the onus cast on the authorities to displace the same, we are of the unhesitant opinion that the denial of disability pension to the respondent in the facts and circumstances of the case, have been repugnant to the relevant statutory provisions and thus cannot be sustained in law. The determination made by the High Court of Jammu and Kashmir at Jammu is thus upheld on its own merit.

28. *The authorities cited at the Bar though underline the primacy of the opinion of the Medical Board on the issue, however, do not relieve it of its statutory obligation to record reasons as required. Necessarily, the decisions turn on their own facts. With the provisions involved being common in view of the uniformity in the exposition thereof, a dilation of the adjudications is considered inessential.*

29. *Though noticeably, the decision rendered in Union of India v. Ravinder Kumar, as referred to in the impugned judgment, was reversed by this Court in Union of India v. Ravinder Kumar, we are of the respectful view that the same cannot be construed to be a ruling relating to the essentiality of recording of reasons by the Medical Board as mandated by the Regulations, Rules and the Guiding Principles. This decision thus is of no determinative relevance vis-à-vis the issues involved in the present appeal.*

30. The last in the line of the rulings qua the dissensus has been pronounced in a batch of civil appeals led by Civil Appeal No. 2904 of 2011; Union of India v. Rajbir Singh in which this Court on an

exhaustive and insightful exposition of the aforementioned statutory provisions had observed with reference as well to the enunciations in Dharamvir Singh v. Union of India, that the provision for payment of disability pension is a beneficial one and ought to be interpreted liberally so as to benefit those who have been boarded out from service, even if they have not completed their tenure. It was observed that there may indeed be cases where the disease is wholly unrelated to Army service but to deny disability pension, it must affirmatively be proved that the same had nothing to do with such service. It was underlined that the burden to establish disability would lie heavily upon the employer, for otherwise the Rules raise a presumption that the deterioration in the health of the member of the service was on account of Army service or had been aggravated by it. True to the import of the provisions, it was held that a soldier cannot be asked to prove that the disease was contracted by him on account of Army service or had been aggravated by the same and the presumption continues in his favour till it is proved by the employer that the disease is neither attributable to nor aggravated by Army service. That to discharge this burden, a statement of reasons supporting the view of the employer is the essence of the Rules which would continue to be the guiding canon in dealing with cases of disability pension was emphatically stated. As we respectfully, subscribe to the views proclaimed on the issues involved in Dharamvir Singh and Rajbir Singh as alluded hereinabove, for the sake of brevity, we refrain from referring to the details. Suffice it to state that these decisions do authoritatively address the issues seeking adjudication in the present appeals and endorse the view taken by us."

29 In ***Ex.GNR. Laxmanram Poonia (Dead) through versus Union of India & others*** (2017) 4 Supreme Court Cases 697 the Hon'ble Apex Court while taking note of the facts that the applicant was overburdened with work due to scarcity of staff, continuous restless duty hours for several days, he suffered hypertension resulting in lack of sleep and hunger. Ultimately, he requested Commanding Officer of his Unit to sanction him leave

considering his critical condition. The Commanding Officer instead of granting leave got him admitted in 174 Military Hospital on 11.11.2007. He remained hospitalized for a period near about two years. Ultimately, Invaliding Medical Board was constituted to assess the cause and degree of disablement incurred upon. The Invaliding Medical Board categorically opined that he was suffering from "acute schizophrenia like psychotic disorder" and his disability was assessed at 60% for life, however, held to be neither attributable to nor aggravated by military service. He ultimately was invalided out from service w.e.f. 07.10.2009 and his claim for the grant of disability pension was rejected. The Apex Court has also taken note of the law laid down in ***Dharamvir Singh's and Rajbir Singh's*** cases cited ***supra*** and has held as under:

> *"18. In the present case, as per the opinion of the Medical Board, disability attending the appellant is acute schizophrenia like psychotic disorder and assessed percentage of the disablement is 60% for life. The Medical Board in its report dated 9-9-2009 has also opined that the disability is neither attributable to nor aggravated by military service. The relevant portion of Medical Board's opinion is as under:*
>
> *"1. **Though the disablement has been mentioned in percentage in Para 6 of Part V, this does not mean eligibility for disability pension since the disability/disabilities is/are neither attributable to nor aggravated by service.***
>
> *2. **Opinion of assessment by the Board is recommendatory in nature and is subject to acceptance by Pension Sanctioning Authority.***

1. Individual is not entitled for disability pension for the disability/ disabilities since the same is/are not attributable to/aggravated by service.

2. Opinion of assessment by the Board is recommendatory in nature and is subject to acceptance by Pension Sanctioning Authority."

Notably, the Medical Board has not given any reason in support of its opinion, particularly, in reference to the fact that there was no note of such disease or disability available in the service record of the appellant at the time of entering military service.

19. The learned Additional Solicitor General appearing for respondent Union of India has submitted that when the Medical Board recorded a specific finding that the disability was neither attributable to nor aggravated by the military service, the same must be given due weight and credence. In support of his contention, the learned counsel placed reliance on dictum of this Court in Union of India v. Ravinder Kumar, wherein it was held as under: (SCC p. 293, para 4)

"4. This Court recently decided an identical case in Union of India v. Jujhar Singh and after reconsidering a large number of earlier judgments including Ministry of Defence v. A.V. Damodaran, Union of India v. Baljit Singh and ESI Corpn. v. Francis De Costa, came to the conclusion that in view of Regulation 179, a discharged person can be granted disability pension only if the disability is attributable to or aggravated by military service and such a finding has been recorded by Service Medical Authorities. In case the Medical Authorities record the specific finding to the effect that disability was neither attributable to nor aggravated by the military service, the court should not ignore such a finding for the reason that Medical Board is specialised authority composed of expert medical doctors and it is a final authority to give opinion regarding attributability and aggravation of the disability due to the military service and the conditions of service resulting in the disablement of the individual. A person claiming disability pension must be able to show a reasonable nexus between the act, omission or commission resulting in an injury/ailment to the person and the normal expected standard of duties and way of life expected from such person. [See also Govt. of India (Ministry of Defence) v. Ajit Singh."

20. There is no gain saying that the opinion of the Medical Board, which is an expert body has to be given due weight and credence. But the opinion of the Medical Board cannot be read in isolation; it has to be read in consonance *with the Entitlement Rules for Casualty Pensionary Awards, 1982 and General Rules of Guide to Medical Officers (Military Pensions), 1982. As per Chapter II of the Guide to Medical Officers (Military Pensions), 2002, which relates to "Entitlement: General Principles", it is made clear that the Medical Board should examine cases in the light of the etiology of the particular disease and only after considering all the relevant particulars of a case, the Board should record its conclusions with reasons so as to enable the Pension Sanctioning Authority to examine the question of entitlement of pension as per Rules. ....."*

xxxxx xxxxx xxxxx

22. In the present case, it is undisputed that the appellant was not suffering from any disease/disability at the time of entering into military service. It was on the respondent to show that the appellant was suffering from schizophrenia at the time of entering into service by producing any document viz. medical prescription, etc. In the absence of any note in the service record in this regard at the time of joining the military service, the Medical Board should have called for the service records and looked into the same; but nothing is on record to suggest that any such record was called for by the Medical Board to arrive at the conclusion that the disability was not due to military service. The Medical Board simply stated that the disability is neither attributable to nor aggravated by military service. The relevant portion reads as under:

> *"1. Though the disablement has been mentioned in percentage in Para 6 of Part V, this does not mean eligibility for disability pension since the Disability/Disabilities is/are neither attributable to nor aggravated by service.*
>
> *2. Opinion of assessment by the Board is recommendatory in nature and is subject to acceptance by Pension Sanctioning Authority."*

In the absence of any evidence on record to show that the appellant was suffering from any such disease like schizophrenia at the time of entering

into the military service, it will be presumed that the appellant was in a sound mental condition at the time of entering into the military service and the deterioration of health has taken place due to military service.

*23. **Based on the above discussion, we hold that the Tribunal did not examine the case at hand in the light of the Army Pension Regulations, 1961, the Entitlement Rules for Casualty Pensionary Awards, 1982 and General Rules of Guide to Medical Officers (Military Pensions), 2002 and, therefore, the impugned order cannot be sustained. Applying the principles of Dharamvir Singh case and Rajbir Singh case, it has to be presumed that the disability of the appellant bore a causal connection with the service conditions. The appellant was diagnosed to be suffering from medical disability at 60% for life on 9-9-2009 and he was discharged from service on 7-10-2009. After invalidation from the service, the appellant passed away on 1-6-2015. By order dated 13-2-2017 in Laxmanram Poonia v. Union of India", the legal heirs have been ordered to be substituted. Hence, wife of the appellant and other legal heirs shall be entitled to disability pension as per the Rules."***

30 After having considered the rival submissions made by learned counsel on both sides and the law laid down by the Apex Court in various judgments cited ***(supra)***, it is proved beyond all reasonable doubt that at the time the applicant entered into military service, the disability did not exist. Therefore, we are not satisfied with the opinion that the disability is "neither attributable to nor aggravated by military service", recorded by the Release Medical Board for the reason that at the time the applicant was commissioned in the Army, no such disease could be detected by the Medical Board which had conducted his medical examination, and in such circumstances, the disability is deemed to be attributable to, or at least aggravated by military service, as has been held by the Apex Court.

31. How the disease was not connected with military service, the Board has failed to record cogent and plausible reasons. The only explanation that the disability having incurred upon in a "peace area" and thus unconnected with the service rendered hence neither attributable to nor aggravated by military service, is absurd and also cryptic. The same even is also against the record and against the rules and judicial interpretation, hence not sustainable in the eyes of law. The opinion that the onset of the disability was in "peace area", and as such the same is not attributable to or aggravated by military service, is not based on sound and cogent reasoning. Above all, in military service, a soldier is under stress and strain due to variety of reasons i.e. climatic, geographic and being away from the company of family members, hence the origin of the disability in a peace area or field area is not of much consequence as provided in rules, interpreted by the Hon'ble Supreme Court and also noticed hereinabove while making reference to the observations of the *Raksha Mantri's Committee of Experts* qua this aspect of the matter . In fact, the *Committee of Experts* has taken into account the effect of stress & strain of military service on the health of troops, besides the law declared by the Hon'ble Apex Court and other practical realities in the life of soldiers.

32. The present rather is a case which is squarely covered in favour of the applicant by the ratio of the judgments of the Hon'ble

Supreme Court in *Dharamvir Singh's* case and other judgments cited *supra*.

33. Considering the law laid down by the Hon'ble Supreme Court and also the rule and the attending circumstances, the rejection of the claim of the applicant for grant of disability pension to the applicant is neither legally nor factually sustainable. The applicant, therefore, is entitled to the grant of disability pension.

34. For all the reasons, hereinabove, this application succeeds and the same is accordingly allowed. The proceedings of the Release Medical Board to the extent of declaring the disability **"Labile Hypertension"** incurred upon by the applicant as "neither attributable to nor aggravated by military service" and subsequent rejection of his claim for the grant of disability pension is quashed & set aside. The applicant is held entitled to disability pension @ 50% as against 20% after being rounded off as per policy and the ratio of the judgment of the Hon'ble Supreme Court in ***Civil Appeal No. 418/2012 titled Union of India Vs Ram Avtar*** decided on 10.12.2014 for life w.e.f **02.05.2008**. The due and admissible monetary benefits up to date be calculated & released to him within a period of three months from the date of receipt of certified copy of this order by learned Central Government Counsel / OIC, Legal Cell, failing which together with interest @ 8% per annum from the date of this order till realization of the entire amount.

35 The application is, accordingly, disposed of, so also the pending Misc. Application (s) if any.

36 No order so as to costs.

Sd/-
(Lt Gen (Dr) Ranbir Singh)
Member (A)

Sd/-
(Justice Dharam Chand Chaudhary)
Member (J)

06.03.2023
Dhameja/ DK

PREPARED BY : 12/07/23

CHECKED BY : 12/7/23

FREE COPY UNDER RULE 23 OF AFT (PROCEDURE) RULES 2008"

CONSULTANT (SECTION OFFICER)