



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE K. NATARAJAN

&

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

FRIDAY, THE 29<sup>TH</sup> DAY OF MAY 2026 / 8TH JYAISHTA, 1948

WP(C) NO. 2893 OF 2026

PETITIONERS/APPLICANT:

BALAMURALI KRISHNA M( EX NO. 15497912 A SWR)  
AGED 40 YEARS, S/O. SHRI. MURUGESAN S.,  
PANCHAKSHARI, ELIPPODE, VATTIYOORKAVU P.O., BALAKRISHNA  
ROAD, THIRUVANANTHAPURAM DIST, KERALA, PIN – 695 013

BY ADVS.  
SRI.T.R.JAGADEESH  
SHRI.ADI NARAYANAN  
SHRI.GOKULKRISHNA V.K.  
SHRI.JOSE JOB  
SMT.MANASI JAGADEESH

RESPONDENT/RESPONDENT:

- 1 UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF DEFENCE (ARMY), SOUTH BLOCK, NEW DELHI, PIN – 110 011.
- 2 ADDITIONAL DIRECTOR GENERAL OF PERSONNEL SERVICES-4 AG'S BRANCH/PS-4(IMP-II), HEAD QUARTERS MINISTRY OF DEFENCE (ARMY), IHQ PO NEW DELHI, PIN – 110 011.
- 3 OFFICER IN CHARGE RECORDS  
ARMOURED CORPS RECORDS C/O 56 APO, PIN – 900 476.
- 4 ACCOUNTS OFFICER,  
PCDA (PENSIONS) ALLAHABAD, UTTAR PRADESH, PIN – 211 014.

BY ADV. SMT. M.SHAJNA, CGC

THIS WRIT PETITION (CIVIL) HAVING HAVING BEEN FINALLY HEARD ON  
22.05.2026, THE COURT ON 29.05.2026 DELIVERED THE FOLLOWING:



**K. NATARAJAN & JOHNSON JOHN, JJ.**

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W.P.(C). No. 2893 of 2026  
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Dated this the 29<sup>th</sup> day of May, 2026

**J U D G M E N T**

Johnson John, J.

The writ petitioner is the applicant in O.A. No. 99 of 2023 on the file of the Armed Forces Tribunal, Regional Bench, Kochi and he is challenging the order dated 06.03.2024 passed by the Tribunal, whereby the Tribunal rejected the claim of the petitioner for disability pension.

2. Heard Sri. T.R. Jagadeesh, the learned counsel for the petitioner and Smt. Shajna, the learned Central Government Counsel for the respondents.

3. The petitioner was enrolled in the Indian army on 18.11.2004 and was discharged on 30.11.2021 after serving the Indian army for 17 years and 12 days. At the time of his discharge, the Release Medical Board assessed the disabilities: (i) primary hypertension at 30% for life; and (ii) Obesity at 5% for life with a composite disability of 33.5% for life. But, the Release Medical Board opined that the disabilities are



neither attributable to nor aggravated by military service and accordingly, the authorities rejected his claim for disability pension.

4. Aggrieved by the denial of disability element of pension, the petitioner filed the Original Application before the Tribunal. But, the Tribunal found that in view of Rule 5 of the Entitlement Rules for Casualty Pensionary Awards, 2008 ('Rules, 2008' for short), there cannot be a presumption in favour of the petitioner and that he is not entitled to get the benefit of statutory presumptions under Rules 5 and 14 of the Entitlement Rules for Casualty Pensionary Awards, 1982 ('Rules, 1982' for short) as the said Rules are not applicable to the petitioner who has been discharged from service on 30.11.2021. The Tribunal further found no reason to disagree with the opinion of the medical board that the invaliding disease was neither attributable to nor aggravated by military service.

5. The learned counsel for the petitioner argued that the Tribunal has not properly considered the effect of Rule 7 under the Rules, 2008 and that the said provision has not exonerated the establishment totally from the burden of proof and that a coordinate bench of this Court in ***Union of India and others v. Bhaskaran*** [2024 KHC 7223], after an elaborate analysis of the various provisions under the Rules, 1982 and Rules, 2008, held that in all cases in which the claim is raised within 15



years of discharge/retirement/invalidment/release, the onus of proof will be primarily on the Department and only in cases wherein claims are raised after 15 years, the burden will be entirely on the claimant.

6. Rule 7 of Rules, 2008 is extracted below for convenient reference:

“7. Onus of proof:

Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.”

7. The Honourable Supreme Court explained the meaning of word "ordinarily" in Rule 7 under the Rules, 2008 as follows in ***State of A.P. v. V. Sarma Rao [(2007) 2 SCC 159]***.

“19. ... The expression “ordinarily” may mean “normally”, as has been held by this Court in *Kailash Chandra v. Union of India* [(1962) 1 SCR 374 : AIR 1961 SC 1346] and *Krishan Gopal v. Prakashchandra* [(1974) 1 SCC 128] but, the said expression must be understood in the context in which it has been used. “Ordinarily” may not mean “solely” or “in the name”, and thus, if under no circumstance an appeal would lie to the Principal District Judge, the court would not be subordinate to it. When in a common parlance the expression “ordinarily” is used, there may be an option. There may be cases where an exception can be made out. It is never used in reference to a case where there



is no exception. It never means “primarily”. In *Kailash Chandra v. Union of India* [(1962) 1 SCR 374 : AIR 1961 SC 1346] it is stated: (SCR p. 379)

“This intention is made even more clear and beyond doubt by the use of the word ‘ordinarily’. ‘Ordinarily’ means ‘in the large majority of cases but not invariably.’”

8. The meaning of the word ‘ordinarily’ is also explained by the Honourable Supreme Court in ***Union of India v. Hemraj Singh Chauhan* [(2010) 4 SCC 290]** as follows:

“41. The word “ordinarily”, of course, means that it does not promote a cast-iron rule, it is flexible (see *Jasbhai Motibhai Desai v. Roshan Kumar* [(1976) 1 SCC 671] at SCC p. 682, para 35). It excludes something which is extraordinary or special (*Eicher Tractors Ltd. v. Commr. of Customs* [(2001) 1 SCC 315] at SCC p. 319, para 6). The word “ordinarily” would convey the idea of something which is done “normally” (*Krishan Gopal v. Prakashchandra* [(1974) 1 SCC 128] at SCC p. 134, para 12) and “generally” subject to special provision (*Mohan Baitha v. State of Bihar* [(2001) 4 SCC 350 : 2001 SCC (Cri) 710] at SCC p. 354).”

9. In ***Bhaskaran*** (supra), this Court held in paragraph 45 as follows:

“45. By employing the word 'ordinarily', the rule making authority has obviously diluted the rigor of the burden which was on the establishment under the Rules of 1982. The intention is very clear that in all cases and under all circumstances it shall no longer be the burden of the establishment to show that the employee is not entitled for the benefit. In appropriate cases the employee shall discharge the onus of proof to seek the benefit. The learned Senior Central Government Counsel placed emphasis on this Rule and argued



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that the same has made a drastic change in the matter of onus of proof. According to the learned counsel, claimants cannot no longer raise a demand and leave it to the establishment to rebut. We shall now examine this contention. We note that the second part of R.7 opens with the expression 'however' and the said sentence operates like a proviso carving out exception to the general rule found in the previous sentence. Reason for providing the exception is also clear from the latter sentence that; when claim is preferred after 15 years, by that time, the service documents of the claimant would be destroyed. Hence, ostensibly, the rule making authority altered the tenor of the rule regarding onus of proof in view of the fact that when belated claims are raised the establishment will not be in possession of the relevant records and in such situations the employee may obtain undue advantages. Unscrupulous persons waiting for destruction of records and raising claims thereafter is also a conceivable situation. Nonetheless, the intention of the rule makers regarding claims made within 15 years discernible from the language employed, is that the onus will continue to be primarily on the Department. We therefore hold with respect to R.7 of the Entitlement Rules of 2008 that the said provision does not exonerate the establishment totally from the burden of proof and in all cases in which the claim is raised within 15 years from the date of discharge / retirement / invalidment / release, the onus of proof will be primarily on the Department. Only in cases wherein claims are raised after 15 years, the burden will be entirely on the claimant. While holding thus, we have kept in mind the observation of the Hon'ble Supreme Court in Union of India and others v. 3989606 P, Ex - Naik Vijay Kumar (supra) that the Entitlement Rules are beneficial in nature and ought to be liberally construed.” (emphasis supplied)

10. In the present case, it is not in dispute that immediately after the rejection of his claim for disability element of pension by the adjudicating authority, he had preferred first and second appeals and after the same were rejected, he approached the Tribunal under Section 14 of the Armed forces Tribunal Act, 2007 and therefore, we find force in the argument of the learned counsel for the petitioner that since the claim is raised within 15 years from the date of discharge, the onus of



proof will be primarily on the Department and the findings of the Tribunal in this regard is not legally sustainable.

11. The detailed justification given in the medical board report in support of the opinion that the disability is neither attributable to nor aggravated by the military service in part-VII of the medical report is extracted below:

“PART-VII

OPINION OF THE MEDICAL BOARD

Please endorse disease/disabilities in chronological order of occurrence:-

Disability	Attributable to Service (Y/N)	Aggravated by Service (Y/N)	Detailed Justification
1.PRIMARY HYPERTENSION (I-10)	No	NO	ONSET OF ID IN PEACE TENURE. THERE IS NO CLOSE TIME ASSOCIATION OF ONSET OF ID WITH FD/CIOPS/HIGH ALTITUDE TENURE. THERE IS NO ANY EVIDENCE OF STRESS AND STRAIN DUE TO MIL SERVICE. HENCE ID IS NANA. (AS PER PARA 43 CHAPTER-VI, GO-2008)
2. SIMPLE OBESITY (E66)	NO	NO	LIFE STYLE DISORDER, HENCE NANA.

12. The learned counsel for the petitioner cited the decision of the High Court of Delhi in **MWO HFL Surendra Nath Singh v. Union of**



**India and another** [2026 SCC OnLine Del 728] and argued that the mere fact that at the time of onset of the disease, military service was being rendered in peace locations or that the disease is a lifestyle disorder would not by itself be a sufficient reason to deny the attributability of the disease to military service. The learned counsel for the petitioner also cited the decision of the Delhi High Court in **Union of India and others v. Col. Balbir Singh (Retd.) and other connected matters** [2025 SCC OnLine Del 7873], wherein it was held as follows in paragraphs 66 to 71 and 73:

“66. It would also be important to note the provision relevant to attributability, that is, Regulation 423 of the Regulations for the Medical Services of the Armed Forces, 2010. The said provision reads as under:

“423.(a). For the purpose of determining whether, the cause of a disability or death resulting from disease is or 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 Area/Active Service area or under normal peace conditions. It is however, essential to establish whether the disability or death bore a causal connection with the service conditions.**

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67. This provision was summarized in **Rajumon T.M.** (supra), wherein it was observed as under:

“17. A careful examination of Regulation 423 of the Regulation for Medical Services for Armed Forces would reveal the following aspects:

1. 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*

- 2. It is, however, essential to establish that the disability or death bore a casual connection with the service conditions.*
- 3. All evidence, both direct and circumstantial, will be taken into account and benefit of reasonable doubt, if any, will be given to the individual.... ..  
..."*

**68.** From a plain reading of Regulation 423(a) of the Regulations for the Medical Services of the Armed Forces, 2010, it is clear that whether a disability or death occurs in a Field/Active service area or under normal Peace conditions is immaterial.

**69.** Nonetheless, it must be noted that even in Peace Stations, military service is inherently stressful due to a combination of factors such as strict discipline, long working hours, limited personal freedom, and constant readiness for deployment. The psychological burden of being away from family, living in isolated or challenging environments, and coping with the uncertainty of sudden transfers or duties adds to this strain. Additionally, the toll of continuous combat training further contributes to mental fatigue. Despite the absence of active conflict or the challenges of hard area postings, the demanding nature of military life at peace stations can significantly impact the overall well-being of personnel.

**70.** Undisputably, even when not on the front lines or in hard areas, soldiers are aware that the threat is never far away. This environment, where danger is a constant reality for their peers and could become their own at any moment, creates a persistent state of mental and emotional strain that cannot be overlooked. Thus, military service, whether in peace locations or operational zones, inherently carries stress that may predispose Force personnel to medical conditions such as hypertension.

**71.** Moreover, it must be noted that lifestyle varies from individual to individual. Therefore, a mere statement that a disease is a lifestyle disorder cannot be a sufficient reason to deny the grant of Disability Pension, unless the Medical Board has duly examined and recorded particulars relevant to the individual concerned.



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73. A reading of the above reinforces that disability pension cannot be denied solely on the ground that the onset of the disability occurred while the Force personnel were posted at Peace Station. Furthermore, it is evident that when Force personnel have rendered prolonged military service, there exists a substantial onus on the RMB to establish that the hypertension is not attributable to or aggravated by military service.”

(emphasis supplied)

13. In ***Rajumon T.M. v. Union of India and others*** [2025 SCC OnLine SC 1064], the Honourable Supreme Court also held that if the opinion of the medical board is devoid of reasons, the act of the authority based on mere opinion *sans* reasons can certainly be questioned.

14. In ***Maniben Maganbhai Bhariya v. Distt. Development Officer, Dahod*** [(2022) 16 SCC 343], the Honourable Supreme Court held thus:

“55. When social security legislations are being interpreted, it always has to be interpreted liberally with a beneficial interpretation and has to be given the widest possible meaning which the language permits, known as beneficial interpretation. When a statute is meant for the benefit of a particular class and if a word in the statute is capable of two meanings i.e. one which would preserve the benefits and one which would not, then the former is to be adopted.”

15. The denial of disability pension based on a medical opinion without providing full reasons to support the opinion cannot be said to be valid. Therefore, we find merit in the submissions of the learned



counsel for the petitioner that the Armed Forces Tribunal committed an error in denying the disability element of pension. Therefore, we find that the petitioner is entitled for the disability element of pension. Hence, the impugned order of the Tribunal is set aside.

In the result, the writ petition is allowed and the respondents are directed to issue a corrigendum PPO granting disability pension to the petitioner at the earliest, at any rate, within a period of three months from the date of receipt of a copy of this judgment, failing which the unpaid arrears would carry interest at 7% per annum.

sd/-  
**K. NATARAJAN,  
JUDGE.**

sd/-  
**JOHNSON JOHN,  
JUDGE.**

Rv

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APPENDIX OF WP(C) NO. 2893 OF 2026

PETITIONER'S EXHIBITS:

Exhibit P-1	TRUE COPY OF ORIGINAL APPLICATION NO 99 OF 2023 ALONG WITH ALL THE ANNEXURES
Exhibit P-2	TRUE COPY OF THE REPLY STATEMENT ALONG WITH ALL ANNEXURES
Exhibit P-3	TRUE COPY OF ORDER DATED 06 MAR 2024 IN O.A NO 99 OF 2023 OF THE HON'BLE AFT, RB, KOCHI

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P. S to Judge.

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