

# Union Of India & Ors. vs Ex Po Log Sc Manish Kumar Singh on 1 April, 2025

**Author: C. Hari Shankar**

**Bench: C. Hari Shankar**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 3955/2025, CM APPL. 18415/2025, CM APPL.  
18416/2025 & CM APPL. 18417/2025

UNION OF INDIA & ORS. ....Petitioners  
Through: Ms. Arunima Dwivedi, CGSC  
with Ms. Kritika Sharma and Mr. Saiyam  
Bhardwaj, Advs.

versus

EX PO LOG SC MANISH KUMAR SINGH ....Respondent  
Through:

CORAM:  
HON'BLE MR. JUSTICE C. HARI SHANKAR  
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% 01.04.2025

C. HARI SHANKAR, J.

1. The respondent joined the Indian Naval Service<sup>1</sup> on 26 February 1996. 17 years after he had joined service, he was diagnosed, in October 2013, as suffering from Diabetes Mellitus<sup>2</sup> Type II. He was, therefore, placed in Low Medical Category. He was discharged from service on 30 June 2019 after serving the INS for over 23 years, 4 months and 4 days of regular service.

1 "INS" hereinafter 2 "DM" hereinafter W.P.(C) 3955/2025

2. The Release Medical Board<sup>3</sup>, which assessed the respondent on 6 February 2019, found him to be suffering from 40% disability for life, but opined that the disability was not attributable to military service. The following features of the report of the RMB are significant:

(i) In the Personal Statement provided by the officer, which is not doubted or disputed by the respondent, he has specifically stated that he did not suffer from any

disability before joining the armed forces.

(ii) In the statement of the Commanding Officer, contained in Part-III of the RMB Report, it is acknowledged that the respondent was in low medical category only for around 6 years prior to the report. No doubt, the statement also states that the duties undertaken by the respondent did not involve severe/exceptional stress or strain.

(iii) Thus, it is an undisputed position that, at the time when the respondent joined the INS, he was not suffering from DM.

It is also undisputed that the ailment was detected, in the case of the respondent, 17 years after he had joined military service.

(iv) The reason for opining that the DM, from which the respondent was found to be suffering, was not attributable to military service, as entered by the RMB in its Report, read thus:

3 "RMB" hereinafter W.P.(C) 3955/2025

1. Causal Relationship of the Disability with Service conditions or otherwise.

Disability Attributable to Aggravated by Not Reason/Cause service (Y/N) service (Y/N) Connected /Specific condition with Service and period in service (Y/N) \*\*\*\*\* Type-2 NO NO YES Neither attributable to Diabetes nor aggravated by Mellitus ICD Military service vide E 11.9 para 26 chapter 24 of GMO 2008 Note. A disability "Not connected with service" would be neither Attributable nor Aggravated by service (This is in accordance with instructions contained in 'Guide to Medical Officers (Mil Pension)-2002) Para 26 Chapter VI of GMO, 2008 to which the aforesaid RMB refers, reads as under:

26. Diabetes Mellitus-

This is a metabolic disease characterised by hyperglycemia due to absolute/relative deficiency of insulin and associated with long term complications called microangiopathy (retinopathy, nephropathy and neuropathy) and macroangiopathy.

There are two types of Primary diabetes, Type 1 and Type

2. Type 1 diabetes results from severe and acute destruction of Beta cells of pancreas by autoimmunity brought about by various infections including viruses and other environmental toxins in the background of genetic susceptibility. Type 2 diabetes is not HLA-linked and autoimmune destruction does not play a role.

Secondary diabetes can be due to drugs or due to trauma to pancreas or brain surgery or otherwise. Rarely, it can be due to diseases of pituitary, thyroid and adrenal gland. Diabetes arises in close time relationship to service out of W.P.(C) 3955/2025 infection, trauma, and post surgery and post drug

therapy be considered attributable.

Type 1 Diabetes results from acute beta cell destruction by immunological injury resulting from the interaction of certain acute viral infections and genetic beta cell susceptibility. If such a relationship from clinical presentation is forthcoming, then Type 1 Diabetes mellitus should be made attributable to service. Type 2 diabetes is considered a life style disease. Stress and strain, improper diet non-compliance to therapeutic measures because of service reasons, sedentary life style are the known factors which can precipitate diabetes or cause uncontrolled diabetic state.

Type 2 Diabetes Mellitus will be conceded aggravated if onset occurs while serving in Field, CIOPS, HAA and prolonged afloat service and having been diagnosed as Type 2 diabetes mellitus who are required serve in these areas.

Diabetes secondary to chronic pancreatitis due to alcohol dependence and gestational diabetes should not be considered attributable to service.

3. After discharge, the respondent claimed disability pension. His claim was rejected by the INS, on the ground that his disability was not attributable to, or aggravated by, military service.

4. Aggrieved, the respondent approached the Armed Forces Tribunal<sup>4</sup> by way of OA 788/2020, which stands allowed by the AFT vide order dated 23 August 2023.

5. The INS, through the Union of India, challenges the decision of the AFT before us, by means of the present writ petition.

4 "AFT" hereinafter W.P.(C) 3955/2025

6. Ms Arunima Dwivedi, learned Central Government Standing Counsel, submits that the AFT erred in allowing the petitioner's claim, in the teeth of the findings of the RMB.

7. Ms Dwivedi submits that of the four ailments which were noted by the RMB in its report, the only ailment which is of consequence, as having been pressed by the respondent to justify his claim to disability pension was DM.

8. She submits that DM is a lifestyle disease and cannot, therefore, be definitely said to be attributable to military service. She also submits that the respondent was not discharged on medical service on the ground of disability, but was placed in low medical category after which he was allowed to serve for about six years after which he retired.

9. However, Ms Dwivedi is not able to dispute the position that, even if the respondent was allowed to serve in low medical category for about six years after he had been found suffering from DM, and was retired in low medical category, he would be entitled to disability pension if the DM was attributable to the military service undertaken by him.

10. It is not in dispute that, at the time when the respondent was inducted into the military service, there is no recording of his having been suffering from DM.

W.P.(C) 3955/2025

11. A similar dispute stands decided by us in *UOI v EX Sub Gawas Anil Madso*<sup>5</sup>. As in the case of *Gawas Anil Madso*, in the present case also the RMB has merely said that the disease is neither attributable nor aggravated by military service, without any further reasons.

12. We have, in the said decision, examined practically the entire existing body of case law on the subject, and do not intend to burden this order by redoing the exercise. Ms Dwivedi has invited our attention to the report of the RMB, apropos the aspect of attributability of the ailment from which the respondent was suffering due to the military service being undergone by him. Some major takeaways from the said decision are, however, the following:

(i) If a disease or ailment was not present at the time of entry of the claimant in military service, it is presumed to be attributable to military service. The longer the military service undergone before the onset of the ailment, the stronger the presumption.

(ii) There are certain diseases which, under the applicable guidelines, are identified as diseases which cannot ordinarily be detected by the tests conducted at the time of induction of the claimant into military service, such as neurological disorders, HIV, asthma with periodic episodes, etc. In such cases, the presumption of attributability under (i) above would not apply.

5 2025 SCC Online Del 2018 W.P.(C) 3955/2025

(iii) Save and except in cases where the claimant prefers his claim for disability pension 15 years, or more, after his discharge or retirement from service, the initial onus to establish that the disease was not attributable to military service is on the military establishment, and not on the claimant. Rule 76 of the 2008 Entitlement Rules, which apply, itself says so.

(iv) The RMB has to give clear and cogent reasons for its decision. The judgments of the Supreme Court, referenced in *Gawas Anil Madso*, have clearly delineated the manner in which the RMB is to examine the case, and frame its opinion. There can be no compromise on that score.

13. In the present case, despite the fact that the respondent was not suffering from DM at the time of his induction in the INS, and the onset of the ailment was 17 years thereafter, the RMB has opined that his ailment was not attributable to military service.

14. Para 26 of the Chapter VI of the GMO 2008<sup>7</sup>, vivisected into its individual components, specifies thus, while dealing with DM:

i. DM is a metabolic disease, ii. DM is characterised by hyperglycaemia, iii. DM is of two types, Type I and Type II depending on the pathological cause of the disease, 6 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 be on the claimant.

7 Para 2(iv) W.P.(C) 3955/2025 iv. secondary DM is stated to be also attributable to drugs or trauma to pancreas or brain surgery or otherwise, as well as to diseases of the pituitary, thyroid and adrenal gland, v. DM Type II would be conceded aggravated if onset occurs serving in Fields/CIOPS/HAA and prolonged afloat service, and vi. DM secondary to chronic pancreatitis due to alcohol dependence and gestational diabetes should not be considered attributable to service.

15. In our opinion, the mere fact that Para 26 states that, in the case of an officer who was serving in field areas, HAA, CIOPS or was on prolonged afloat service when DM was first detected, there would be a presumption that the DM was attributable to, or aggravated by, military service, does not imply, as a sequitur, that, in all other cases, the presumption would be otherwise. The contrapositive cannot be implied.

16. If an officer has undergone military service for 17 years before he was found suffering from DM, there can, in our reckoning, be no manner of doubt that an onerous duty would be cast on the RMB to establish that the DM was not attributable to, or aggravated by, military service. This would have to be established by cogent material, after garnering all requisite evidence. The Supreme Court has already laid down the nature of the exercise which has to be undertaken by the RMB in such cases.

W.P.(C) 3955/2025

17. If, in such a case, the RMB is of the opinion that, despite the onset of the DM having been several years after the claimant joined military service, the DM was not attributable to military service, the RMB Report would have to identify the other factors to which it was attributable, and that finding would also have to be supported by some material and not be the mere ipse dixit of the RMB, as it were. The causal link between the exacerbating factor, and the ailment, has to be clearly established.

18. In the present case, the reasoning given by the RMB for holding that the DM from which the respondent suffers was not attributable to military service does not, in our opinion, meet these standards.

19. We have already held, in *Gawas Anil Madso*, that all disorders which can arise owing to lifestyle issues are not, for that reason alone, presumed not to be attributable to the military service undergone by the cadet. If the lifestyle of the cadet during military service was the cause of the ailment, the RMB report has specifically to say so, identifying the exacerbating causes in the claimant's lifestyle.

20. The entitlement to disability pension is only dependent on the ailment, or disability, being attributable to, or aggravated by, military service. There is no further requirement that the military service must have been rendered in a disturbed area, or in an atmosphere where the candidate is subjected to stress or tension. We are in agreement with the AFT that military service, even by its very nature, entails a certain degree of stress and strain, both physical and mental. There can be no W.P.(C) 3955/2025 universal presumption that DM is attributable to military service only if its onset is while the candidate is posted in an area where he is under stress or pressure.

21. No sufficient reason can be said to have been adduced, by the RMB, for its opinion that the Diabetes Mellitus from which the respondent was suffering was not attributable to military pension. It merits reiteration that the onset of the ailment was 17 years after the respondent joined the INS.

22. Given the law in that regard, we are of the opinion that no exception can be taken to the decision of the Tribunal to grant disability pension to the respondent.

23. Accordingly, the order of the Tribunal is upheld. Compliance with the impugned judgment of the AFT be ensured within a period of four weeks.

24. The writ petition is dismissed in limine.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 1, 2025 dsn [Click here to check corrigendum, if any](#) W.P.(C) 3955/2025