

Union Of India & Ors. vs Ex Lmus Deepak Gaur on 2 April, 2025

Author: Navin Chawla

Bench: Navin Chawla

\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 02.04.202

+

W.P.(C) 3229/2025

UNION OF INDIA & ORS.

.....Petitioners

Through:

Ms.Radhika Bishwajit Dubey,

CGSC with Ms.Gurleen Kaur

Waraich, Mr. Kritart

Upadhyay, Advs.

versus

EX LMUS DEEPAK GAUR

.....Respondent

Through:

Mr. Ved Prakash, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM.APPL. 15205/2025 (Exemption)

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 3229/2025, CM APPL. 15206/2025, CM APPL.

3. This petition has been filed by the petitioners, challenging the Order dated 21.07.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application ('O.A.') No. 958/2020 titled Ex LMUS Deepak Gaur v. Union of India & Ors., which partially allowed the O.A. filed by the respondent herein with the following directions:

W.P.(C) 3229/2025 "26. The OA 958/2020 is thus partially allowed. The applicant is held entitled to the grant of the disability element of pension in relation to the disability of Seizure Disorder ICD No. G 40.0 at 20% for life in terms of the verdict of the Hon'ble Supreme Court in Union of India vs. Ram Avtar in Civil Appeal No. 418 of 2012 decided on 10.12.2014 is directed to be broadbanded to 50% for life as well as in terms of the Government of India, Ministry of Defence letter dated 31.01.2001."

4. The learned counsel for the petitioners submits that the learned Tribunal has wrongly placed reliance on the judgement of the Supreme Court in *Dharamvir Singh v. Union of India*, (2013) 7 SCC 316, to allow the O.A. filed by the respondent herein without appreciating that the medical condition of the respondent, being Seizure Disorder, can be caused due to various reasons that are not attributable to service conditions.

5. She further submits that the respondent was enrolled merely as a Musician in the Indian Navy, and referring to Para 33 of the Guide to Medical Officers (Military Pensions) 2008, she submits that epilepsy can develop at any age without obvious discernible cause and that the factors which may trigger the seizures are sleep deprivation, emotional stress, physical and mental exhaustion, infection, pyrexia and loud noise, none of which are applicable in the case of the respondent.

6. Referring to the report of the Release Medical Board dated 14.05.2019, she submits that the respondent was posted in a peace area throughout his service and was also excused from several types of duties, such as night duties, parade with arms, parade without arms W.P.(C) 3229/2025 and PET.

7. She submits that in view of the above, the opinion of the medical board could not have been interfered with by the learned Tribunal.

8. The learned counsel for the respondent, on the other hand, submits that even Musicians in the Indian Navy are required to undergo basic training. He submits that due to the nature of his duties, the respondent was surrounded by the loud noise of drums and other musical instruments, which is a factor that can trigger epilepsy, as recognised by the Guide to Medical Officers (Military Pensions) 2008.

9. He further submits that, in fact, the respondent had first suffered from the disability in August 2015 while he was on INS Trikhand, but there was no documentary evidence available of the said incident.

10. In support of his case, he places reliance on the judgment dated 27.03.2025 of this Court in W.P.(C) 3545/2025 titled *Union of India & Ors. v. Ex Sub Gawas Anil Madso*.

11. We have considered the submissions made by the learned counsels for the parties.

12. In the present case, the learned Tribunal, by way of a detailed order, noted the clinical details of the respondent and observed that he had suffered a similar episode of seizure disorder in August 2015 while being onboard INS Trikhand, though no documentary evidence was available regarding the same.

13. The learned Tribunal placed reliance on Para 33 of the Guide to Medical Officers (Military Pensions) 2008, which stipulates that the factors which may trigger a seizure are sleep deprivation, emotional W.P.(C) 3229/2025 stress, physical and mental exhaustion, infection and pyrexia and loud noise, and noted that epilepsy can develop after time lag/latent period of seven years from the

exposure to the offending agent.

14. The learned Tribunal observed that as a Musician in the Indian Navy, the nature of duties of the respondent was 'Band Performance' where he was exposed to loud music/sounds of high decibels, which is a triggering factor for the onset of the triggered seizures in terms of Para 33 of the Guide to Medical Officers (Military Pensions) 2008. The learned Tribunal, therefore, held that the likelihood of the onset of the disability of the applicant on 14.01.2016 pursuant to his deployment onboard INS Trikhand in August 2015 cannot be overlooked and the disability had to be held attributable to and aggravated by military service.

15. Additionally, the learned Tribunal observed that as per the clinical details of the respondent in the Release Medical Board proceedings, the respondent did not have a history of any lifestyle or psychological illness or hereditary disorder, which could contribute to his ailment, and that he was a non-smoker, non-tobacco chewer and non-alcohol consumer.

16. The learned Tribunal also held that deployment in a peace area is also accompanied with the normal stress and strain of military service and in terms of Regulation 423(a) of the Regulations for the Medical Services of Armed Forces 2010, it is immaterial whether the cause giving rise to the disability occurred in the field or a peace area, and all that is required to be established is whether the disability bore a causal connection with the service conditions, which the learned W.P.(C) 3229/2025 Tribunal found proved in the present case.

17. We also remind ourselves that we are not sitting in appeal over the decision of the learned Tribunal. In view of the law laid down by the Supreme Court in Dharamvir Singh (supra) and this Court in Ex Sub Gawas Anil Madso (supra), we find no infirmity in the opinion formed by the learned Tribunal and do not find this to be a fit case for interfering with the Order dated 21.07.2023 passed by the learned Tribunal.

18. Accordingly, the petition along with pending applications, is dismissed.

NAVIN CHAWLA, J RENU BHATNAGAR, J APRIL 2, 2025 ab/SJ/Kg Click here to check corrigendum, if any W.P.(C) 3229/2025