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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 1862/2025**

EX NB SUB KHEM BAHADUR THAPAPetitioner
Through: **Ms. S. Tomar, Adv. (through VC).**

versus

SHRI RAJESH KUMAR SINGH & ORS.Respondents
Through: **Mr. Ashish K. Dixit, CGSC with Mr. Umar Hashmi, Ms. Iqra Sheikh & Mr. Abdullah Shahid, Advs. Major Anish Murlidhar, Army.**

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **05.12.2025**

1. This hearing has been done through hybrid mode.
2. The present petition under Article 215 of the Constitution of India and Sections 2 (b) and 12 (3) of the Contempt of Courts Act, 1971 seeks the following prayers:-

“A. The Hon' ble High Court may initiate "civil contempt" proceedings against the respondents for wilful disobedience to a court order dated 09 July 2025 in WP(C) No. 9388 of 2025. Pass such other or further order(s) as this Hon'ble Court may deem fit and proper and to which the Petitioner may under law is entitled to.”

3. Learned counsel appearing on behalf of the petitioner submits that *vide* order dated 20.01.2023 in OA 753/2021, the learned AFT, Principal Bench, New Delhi, had passed the following directions:-

“8. The law on the point of attributability of a disability is already settled by the Hon'ble Supreme Court in the case of **Dharamvir Singh Vs. Union of India (2013) 7 SCC 316**, which



has been followed in subsequent decisions of the Hon'ble Supreme Court and in the number of orders passed by the Tribunal, wherein the Apex Court had considered the question with regard to payment of disability pension and after taking note of the provisions of the Pension Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers, it was held by the Hon'ble Supreme Court that an Army personnel shall be presumed to have been in sound physical and mental condition upon entering service except as to physical disabilities noted or recorded at the time of entrance and in the event of his being discharged from service on medical grounds, any deterioration in his health, which may have taken place, shall be presumed due to service conditions. The Apex Court further held that the onus of proof shall be on the respondents to prove that the disease from which the incumbent is suffering is neither attributable to nor aggravated by military service.

8. In the light of the law already laid down with regard to the attributability / aggravation, we find that the RMB has denied the attributability / aggravation of the disability giving the reason that the reason for onset of disease was unknown. However, taking note of the facts and circumstances of the case, we are of the view that this reasoning given by the RMB for denying disability element of disability pension to applicant is strange and given in a casual manner with non application of mind. Admittedly, the applicant was enrolled in September, 1983 and the disability has first started after more than 22 years of Army service i.e. in March, 2006. There is no note in the service documents that he was suffering from any disease at the time of entering into service and the same started during the service and, in fact, the cause for onset of the same was reported to be unknown by RMB. We are, therefore, of the considered opinion that the applicant is entitled to be granted the benefit of doubt in these circumstances in view of above judgment and settled law on the point of attributability. Accordingly, the disability of the applicant is held attributable to the military service.

9. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is entitled for



disability element of pension in respect of disability 'Primary Hypertension'. Therefore, OA is allowed. The respondents are directed to grant disability element of pension to the applicant @ 30% which be further rounded off to 50% for life from the date of discharge in term of the judicial pronouncement of the Hon'ble Supreme Court in the case of **Union of India Vs. Ram Aytar (Civil Appeal No. 418/2012)** decided on 10.12.2014. However, as the applicant has approached the Tribunal after a considerable delay, in view of the law laid down in Tarsem Singh's case (*supra*), arrears will be restricted to three years prior to the date of filing of this OA i.e. 18.03.2021.”

4. Subsequently, the aforesaid judgment passed by the learned AFT was challenged before the learned Division Bench of this Court in W.P.(C) 9388/2025. *Vide* judgment dated 09.07.2025, affirming the aforesaid judgment passed by the learned AFT, the learned Division Bench had observed as under:

“9. Within the limited parameters of the *certiorari* jurisdiction and keeping in view the facts of the case outlined hereinabove, we find no cause to interfere with the impugned judgment of the AFT, which is affirmed in its entirety.

11. The present petition is, accordingly, dismissed in *limine*.

12. Compliance with the impugned judgement of the AFT, if not already ensured, be ensured within a period of four weeks from today.”

5. Issue notice.

6. Learned counsel for the respondents accepts notice. Let a compliance report be filed before the next date of hearing.

7. List on 11.03.2026.

AMIT SHARMA, J

DECEMBER 05, 2025/nk