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

\+ W.P.(C) 18383/2025, CM APPL. 76114/2025 & CM APPL. 76115/2025

UNION OF INDIA & ORS. .....Petitioners
Through: Mr. Kushagra Kumar, SPC with Ms. Pragati Trivedi, Adv.

versus

(622754) EX SGT MOHAMMAD YAMIN .....Respondent
Through: Mr. Praveen Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 03.12.2025

C. HARI SHANKAR, J.

1. This is a writ petition filed by the Union of India assailing order dated 16 August 2023 passed by the Armed Forces Tribunal[1] allowing a claim of disability pension.

2. This is yet another case in which a writ petition has been filed, assailing the order passed by the AFT allowing a claim for disability pension, in a case where the officer was found to suffer from primary hypertension.

3. We may note, at the very outset, that the order passed by the

[1] "the AFT" hereinafter

Tribunal is of dated 16 August 2023, and the present petition has been filed in November 2025 without a word of explanation for the delay.

4. Following the law declared by the Supreme Court in a plethora of judgements disapproving entertainment of grossly belated writ petitions, including the recent decision in ***Thirunagalingam v. R. Lingeswaran***[2], this writ petition is liable to be dismissed even on the ground of unconscionable delay and laches.

5. Nonetheless, as it is covered by earlier orders passed by us, we also deal with it on merits.

6. This Bench has passed as many as 355 orders allowing claims for disability pension, of which 204 orders cover cases of primary hypertension.

7. No order, interdicting or staying the operation of any of our decisions, has been brought to our notice.

8. In the present case, the respondent remained in service with the petitioner for 37 years and 4 months before he was released from service. The onset of disability was itself 31 years after he had joined service. The report of the Release Medical Board[3] itself records that, at the time when the respondent joined service, he was not recorded as suffering from primary hypertension.

[2] **2025 SCC OnLine SC 1093**

[3] "RMB" hereinafter

9. The reasons adduced by the RMB for treating the respondent's primary hypertension as not attributable to or aggravated by military service, read thus:

> "ID occurred in peace unit (As per para 43 of Chp VI of GMO Mil Pensions 2008."

10. The only reason stated, therefore, is that the ailment "occurred in peace unit". Apart from this, para 43 of Chapter VI of the GMO has been referred to.

11. We have also seen the accompanying report of the specialist who had investigated the respondent and we find that the specialist, too, has not opined that the primary hypertension from which the respondent was suffering was not attributable to or aggravated by military service.

12. The reason stated in the present case is identical to that contained in, several earlier decisions of this Bench, including ***Union of India v. Ex. SGT Manoj K L Retd***[4]***, Union of India v. Rajveender Singh Mallhi***[5] and ***Union of India v. Koutharapu Srinivasa***[6]***, etc.*** We have, in all these cases, granted disability pension and upheld the decision of the AFT.

13. These decisions apply, *mutatis mutandis*, to the present case.

14. We deem it appropriate to re-emphasize that we are not sitting

[4] **2025 SCC OnLine Del 8442**
[5] **2025 SCC OnLine Del 3956**
[6] **2025 SCC OnLine Del 4292**

in appeal over the decision of the AFT. We are exercising *certiorari jurisdiction* which is bound by the following enunciation of law in ***Syed Yakoob v. K.S. Radhakrishnan***[7]:

> "7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court.* This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. *An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised* (*vide* ***Hari Vishnu Kamath v. Syed Ahmad Ishaque***[8]***, Nagandra Nath Bora v.***

[7] **AIR 1964 SC 477**
[8] **(1954) 2 SCC 881**

Commissioner of Hills Division and Appeals Assam[9] *and* ***Kaushalya Devi v. Bachittar Singh***[10].

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. *What can be corrected by a writ has to be an error of law; hut it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record*. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but *there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record*. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened."

(Emphasis supplied)

15. Within the parameters of the certiorari jurisdiction, we do not find any cause to interfere with the impugned judgment of the AFT, which is affirmed in its entirety.

[9] **AIR 1958 SC 398**
[10] **AIR 1960 SC 1168**

16. Accordingly, the present writ petition is dismissed both on merits as well as on delay and laches, in *limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 3, 2025
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