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

\+ W.P.(C) 18333/2025, CM APPL. 75912/2025 & CM APPL. 75913/2025

UNION OF INDIA THROUGH ITS SECRETARY & ORS.
.....Petitioners

Through: Mr. K.C. Dubey, SPC

versus

EX SGT SUBIR DANDAPAT(780463-K) .....Respondent

Through:

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. We have, till date, decided 355 cases in which we have dismissed appeals challenging orders of the Armed Forces Tribunal, allowing the claims of disability pension.

2. Of these, 71 cases relate to instances where the officers suffered from Diabetes Mellitus Type-II[1].

3. This is the 72nd case, also involving an officer suffering from DM-II.

4. As in all other cases, the respondent in the present case has

served the Army for a considerable period - 19 years and 6 months to be precise - before onset of the ailment.

5. The report of the RMB provides the following reasoning for holding the ailment not to be attributable to or aggravated by military service:

> "Diabetes Mellitus Type II(Old): It's a lifestyle disorder. Onset in peace. No close time association with stress/strain of FD/HAA/CIOPS service as per para 26 CH VI of GMO 2008."

6. In cases where an identical ground was cited for disallowing disability pension where the officer was suffering from DM-II, we have, following the judgments of the Supreme Court in ***Dharamvir Singh v. UOI***[2] and ***Bijender Singh v. UOI***[3], dismissed writ petitions in several matters, including ***Union of India v. GP Capt. S Kumaran (Retd.)***[4], ***Union of India v. Sayan Panja***[5] and ***Union of India v. GP Capt. Santosh Kumar***[6].

7. There is no order or judgement interdicting, staying or setting aside these decisions, till date.

8. Those decisions apply, *mutatis mutandis*, to the present case.

9. We re-emphasize that we are not sitting in appeal over the decision of the AFT. We are exercising *certiorari jurisdiction* which

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[1] "DM-II" hereinafter
[2] **(2013) 7 SCC 316**
[3] **2025 SCC OnLine SC 895**
[4] **2025 SCC OnLine Del 7589**
[5] **2025 SCC OnLine Del 2910**
[6] **2025 SCC OnLine Del 3218**

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. Commissioner of Hills Division and Appeals Assam***[9]

[7] **AIR 1964 SC 477**
[8] **(1954) 2 SCC 881**
[9] **AIR 1958 SC 398**

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."
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> (Emphasis supplied)

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

11. We are not being told that any order, either interim or final,

[10] **AIR 1960 SC 1168**

interfering with our decisions, has been passed by the Supreme Court in any of these matters.

12. Following the aforesaid decisions, we find no cause made out to issue notice in this petition, which is accordingly dismissed in *limine*.

13. Compliance with the impugned judgement of the AFT be ensured within twelve weeks.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 3, 2025/*dsn*