

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP (C) No. 526/2026

Pronounced on : 03.03.2026

Uploaded on : 06.03.2026

1. **Union of India through its Secretary to Govt. of India,
Ministry of Defence, South Block, New Delhi-10011.** Petitioner(s)
2. **The Chief of Army Staff,
COAS Secretariat IHQ of Ministry of Defense,
PO New Delhi-110011.**
3. **Additional Directorate General of Personnel Services
AG Branch IHQ of MOD (Army)-900256 C/o 56 APO**
4. **Principal Controller of Defence Accounts (Pension),
Draupadi Ghat, Allahabad, Uttar Pradesh-211014.**
5. **Senior Record Officer,
The Sikh Regiment Centre Ramgarh Cantt.**

Through :- Mr. Rohan Nanda, Sr. Panel Counsel

v/s

**EX NK Gurdeep Singh, S/o Sh. Darshan Singh,
R/o Village & PO Rajpur Kamila, Tehsil Nowshera,
District Rajouri, J & K UT-185151.**

.....Respondent(s)

Through :-

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**ORDER (ORAL)
03.03.2026**

1. Impugned in this petition, filed by the Union of India and four others under Article 226 of the Constitution of India, is an order and judgment dated 14.07.2022 as modified vide order dated 10.11.2022 [**“the order impugned”**] passed by the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu [**“the Tribunal”**] in OA No. 125 of 2021 titled *“Gurdeep Singh Vs. Union of India & Ors.”*, whereby the Tribunal has allowed the OA of the respondent

and held him entitled to the benefit of rounding off his disability element of pension w.e.f. 01.01.2012 for life.

2. Briefly stating, the facts leading to the filing of the present petition are that, the respondent was enrolled in the Indian Army on 01.01.1995 and was discharged on 31.12.2011 on completion of his term of engagement. He at the time of his discharge was holding the rank of Naik. The release medical board assessed the disability of the respondent @ 20% aggravated by Military Service. The respondent was thus granted the disability pension @ 20% but was not given the benefit of rounding off to 50%. The benefit of rounding off was not granted to the respondent on the ground that he was discharged from Military Service on completion of his tenure and, therefore, was not entitled to such benefit.
3. The OA was contested by the petitioners and in their reply affidavit, they have admitted that the benefit of rounding off of 50% is now given to the soldiers w.e.f. 01.01.2016 and, therefore, the respondent can only claim the benefit of rounding off from 01.01.2016 and not from 01.01.2012 as claimed.
4. The Tribunal after considering the rival contentions and having regard to the judgment rendered by the Hon'ble Supreme Court in the case of "*Union of India & Ors. Vs. Ram Avtar*", [**"2014 SCC Online 1761"**] rejected the contention of the petitioners herein and held the respondent entitled to the benefit of rounding off of his disability element from 20% to 50% w.e.f. 01.01.2012 i.e. from the date of his discharge from the Military Service.

5. The impugned judgment has been called in question by the petitioners on the ground that the Tribunal has not taken into consideration the Circular No. 596 dated 09.02.2018 which confers the benefit of rounding off of the disability pension only w.e.f. 01.01.2016 and not from any date anterior thereto.
6. **Having heard learned counsel for the petitioners at length and perused the material available on record, we are of the considered opinion that the judgment impugned passed by the Tribunal is legally and factually perfect calling for no interference from us in these proceedings.** The issue which is sought to be raised in this petition is squarely covered by the judgment of Hon'ble Supreme Court in case titled "*Union of India & Ors. Vs. SGT Girish Kumar & Ors. Etc.*" [**2026 INSC 149**], wherein the Supreme Court has, by placing reliance on the policy decision of the Government of India declared vide communication dated 18.04.2016, reaffirmed the legal position settled in Ram Avtar's case (*supra*) that all the Armed Forces Personnel who had retired or were discharged on completion of engagement with disability, attributable to or aggravated by Military Service, are entitled to the benefit of rounding off from the date of their discharge/retirement with disability. The Hon'ble Supreme Court has also clarified that the judgment rendered in the case of Ram Avtar (*supra*) was *judgment in rem* and the benefit thereof, was available to all the Ex-servicemen who had been retired or discharged on completion of tenure with disability aggravated by or attributable to from Military Service.

7. As a matter of fact, with a view to give effect to the judgment rendered by the Hon'ble Supreme Court in the case of Ram Avtar (supra), the Ministry of Defence, Department of Ex-Servicemen Welfare D (Pension/Legal) vide communication dated 18.04.2016 conveyed to all the three Service Chiefs the approval of the Competent Authority for granting the benefit of broad-banding of disability element to all the Armed Forces Personnel retired or discharged on completion of the term of their engagement with disability attributable to or aggravated by Military Service from the dates mentioned in their respective orders.
8. It is true that the Government of India came up with Circular No. 596 (supra) providing for the benefit of broad-banding of the disability element to all the Armed Forces Personnel retired or discharged on completion of their term or engagement with a disability attributable to or aggravated by Military Service w.e.f. 01.01.2016 irrespective of whether or not they were the petitioners in the batch of petitions which culminated into decision of Ram Avtar's case (supra).
9. We could have given serious thought to the position as emerging from communication dated 09.02.2018, strongly relied upon by Mr. Rohan Nanda, learned Sr. Panel Counsel, but having regard to the fact that the Hon'ble Supreme Court in the case of SGT Girish Kumar (supra) has categorically and unequivocally held that the judgment rendered in the Ram Avtar's case is a *judgment in rem* and was, therefore, applicable to all the Armed Forces Personnel retired or discharged on completion of terms of engagement with

disability aggravated by or attributable to Military Service. We wish to state that an internal communication between the Government of India and the three Army Chiefs cannot change the law declared by the Hon'ble Supreme Court.

10. That apart, the communication dated 09.02.2018 was not brought to the notice of the Tribunal and rightly so as the petitioners herein were aware that the same could not have supplanted the decision of the Hon'ble Supreme Court. The communication dated 18.04.2016 has actually stemmed out of a misconception of the petitioners that the benefit of broad-banding of disability element of disability pension was applicable only to the parties who had approached the Tribunal in a litigation which culminated into passing of the judgment by the Hon'ble Supreme Court in Ram Avtar's case (supra). This misconception is now addressed by the Hon'ble Supreme Court in the case of SGT Girish Kumar (supra).
11. In view of the aforesaid, **we find no merit in this petition and the same, is accordingly, dismissed.**

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
03.03.2026
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Whether the order is speaking : Yes
Whether the order is reportable : Yes