

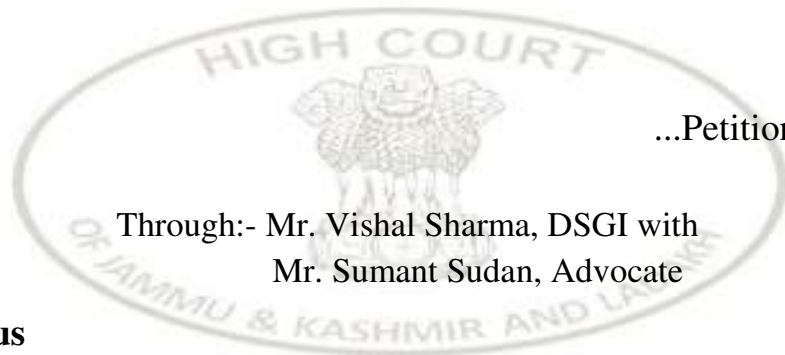
HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No.986/2024

Pronounced on: 31.01.2026

Uploaded on: 03.02.2026

1. Union of India through its Secretary to Government of India,
Ministry of Defence, South Block, New Delhi-110011.
2. Additional Director General Personnel Services,
Adjutant General's Branch, Integrated HQ of Ministry of
Defence (Army), DHQ PO, New Delhi-110001
3. The Principal Controller of Defence Accounts (Pension).
Draupadi Ghat, Allahabad, Uttar Pradesh-211014



Versus

No.3995566-P Ex Hav Major Singh S/o Shri Natha Singh,
R/o Village Jakhol Motta, P.O. Dhanni
Tehsil and District Kathua-184143

...Respondent(s)

Through:- Mr. B.S.Sarmal, Advocate with
Mr. Amit Singh, Advocate

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

JUDGMENT

Sanjeev Kumar "J"

1. By this writ petition, filed under Article 226 of the Constitution of India, Union of India and others throw challenge to an order and judgment dated 11th April, 2023 passed by the Armed Forces Tribunal, Regional Bench Srinagar at Jammu ["AFT"] in OA No.110 of 2022 titled *Ex Hav Major Singh v. Union of India and others*,

whereby the AFT has allowed the OA filed by the respondent and set aside the impugned order in the OA, whereby the respondent's claim of disability pension was rejected. The respondent has been held entitled to disability pension @ 50% for life as against 30%. Strong reliance has been placed by the AFT on *Dhahramvir Singh v. Union of India*, (2013) 7 SCC 316 and *Union of India v. Ram Avtar*, 2014 SCC OnLine SC 1761.

2. The impugned judgment of the AFT is assailed by the petitioners on the ground that the AFT has failed to consider that the disability of the respondent had been assessed by the Release Medical Board as neither attributable to nor aggravated by military service. The AFT also did not appreciate that the opinion of the Medical Board consisting of experts was not amenable to judicial review by the Court unless there was strong medical evidence on record to dispute such opinion.

3. Having heard learned counsel for the petitioners and perused the material on record, we are of the considered opinion that the judgment passed by the AFT is perfectly legal and does not call for any interference by us in the exercise of our extraordinary writ jurisdiction.

4. In the instant case, the respondent was enrolled in Indian Army on 06.11.1995. He was granted part of annual leave (PAL) from 15.07.2019 to 24.07.2019 (10 days). On 24.07.2019, while the respondent was waiting for a Bus at Bus Stand, Kalibade (Kathua) to board a bus to report at Chandigarh Transit Camp on termination of his

leave, he was hit from behind by a vehicle. Due to accident, the petitioner fell unconscious and shifted to Civil Hospital, Kathua from where he was shifted to 167 MH Pathankot on the same night. The respondent was diagnosed with ***“RTA Open Commuted Fracture Tibia Fibula (RT) (OPTD) (S-82.2)”***. After discharge from the hospital, the respondent was granted six weeks sick leave. Thereafter the respondent reported to 167 MH, Pathankot from where he was routed to his unit.

5. The Court of Enquiry proceedings were also held to investigate the circumstances under which the respondent sustained aforesaid injuries while on leave. As per the finding of the Court of Enquiry, “the injury sustained by the respondent was accidental in nature and the same was attributable to military service as the individual was on 10 days PAL and no foul play was suspected in the incident. However, as per the opinion of the Court of Enquiry, the injury is indicated to be not attributable to the military service contrary to the finding recorded in the report. Subsequently, Release Medical Board examined the respondent, which assessed the disability ***“Open Commuted Fracture Tibia Fibula (RT) (OPTD)”*** suffered by the respondent @ 30% for life and regarded the same neither attributable to nor aggravated by military service. On the basis of the opinion of the medical board, the respondent was discharged from military service on 30.11.2019 in terms of Rule 13 (3) item III (iv) of the Army Rules, 1954. The

respondent was granted service pension, however, benefit of disability pension was denied to the respondent.

6. Feeling aggrieved, the respondent preferred OA No.110/2022 before the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu seeking, inter alia, a direction to the petitioners herein to grant disability pension for the disabilities suffered by him due to which he had been invalided out of the Army Service with the benefit of rounding off to 50%. The respondent's claim in the OA was resisted by the petitioners herein on the ground that since the disability of the respondent has been regarded as neither attributable to nor aggravated by military service, as such, he is not entitled to disability pension. The AFT, having considered the rival submissions and the material on record, held the disability incurred by the respondent attributable to army service and, accordingly, allowed the OA thereby directing the petitioners herein to grant disability pension to the respondent with the benefit of rounding off to 50% as against 30% vide order dated 11.04.2023, which has been impugned by the petitioners in this petition filed under Article 226 of the Constitution of India.

7. Having heard learned counsel for the parties and perused the material on record, the only question that begs determination in this case is whether opinion of the medical board, which assessed the disabilities as neither attributable to nor aggravated by military service can be relied upon to justify the disentitlement of the respondent to the disability pension in respect of his military service.

8. The controversy raised in this case is squarely covered a judgment of this Court dated 03.01.2025 rendered in a batch of petitions including WP(C) No.657/2025, wherein it was observed that while going to railway station in order to get the seat reserved in preparation to rejoin back the duty after leave, as such, the injuries suffered by the respondent in the accident bears causal connection with military service.

9. In the instant case of respondent, he met with an accident while he was waiting for a Bus to be boarded for reporting to Transit Camp at Chandigarh, which fact has not been disputed by the petitioners at any stage. It is, thus, an admitted case that the respondent suffered injuries while he was going for joining back his duties, which establishes clear connection with his duty in military service. He suffered unfortunate accident only because he was going back to his unit to perform military duty. Even on the face of the finding of the Court of Enquiry conducted to investigate the circumstances of the injury, denial of disability pension to the respondent is not in consonance with law.

In view of the above, we find no merit in this petition; the same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
31.01.2026
Vinod

Whether the order is speaking : Yes/No
Whether the order is reportable: Yes/No