

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case No. WP(C) No. 2016/2024
CM No. 4892/2024

Reserved on : 29.10.2025
Pronounced on : 18.08.2026
Uploaded on : 18.08.2026
Whether the operative part or full judgment
is pronounced

**1. Union of India through its Secretary to Government of India,
Ministry of Defence, South Block, New Delhi**

**2. Additional Director General Personnel Services, Adjutant
General's Branch, Integrated HQ of Ministry of Defence (army),
DHQ PO, New Delhi**

**3. Principal controller of Defence Accounts (Pensions), Draupadi
Ghat, Allahabad, Uttar Pradesh**

**4. OIC Records, SIKH Regiment Records, PIN-144701, C/o 56
APO.**

...Petitioner(s)/Appellant(s)

Through:- Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, CGSC

V/s

**No 12924358X Ex Sepoy Jitender Singh, S/o Shri Mohinder Singh,
R/o House No 144A Sector-3 Sanjay Nagar & Post Office: Gangyal,
Tehsil & District: Jammu(J&K)- 180010**

....Respondent(s)

Through:- Mr. Sanjog Khatri, Advocate
Mr. Chakshu Sharma, Advocate
(*through virtual mode*)

CORAM:

HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

JUDGMENT

Per: Sindhu Sharma-J

1. The petitioners have filed this writ petition assailing the order dated 08.12.2022 passed by the Armed Forces Tribunal, Srinagar Bench at Jammu (hereinafter, "AFT") in

OA No. 77/2022 titled *Ex Sepoy Jitender Singh vs. Union of India & Others*. By the said order, the AFT held the respondent entitled to disability element of disability pension for life by treating his disability as 20% w.e.f. 01.02.2021 and by further granting him the statutory rounding-off to 50%.

2. The respondent was enrolled in 157 Infantry Battalion (Territorial Army). He was discharged from Territorial Army on 31.01.2021(A/N) under the provisions of Section 8 of TA Act and Rule 14(A) of TA Regulations 1948 on completion of terms of engagement prescribed for his rank. The respondent prior to discharge, was brought before a duly constituted Release Medical Board ("RMB"). The RMB assessed the respondent as suffering from the following disabilities:

- (i) First disability i.e., *Post Traumatic Raw Area Right Middle, Ring & Little Finger* as *attributable to military service* and assessed at 14% for life;
- (i) Second disability i.e., *Simple Obesity*, as *neither attributable to nor aggravated by military service*, assessed at 5%;
- (ii) Composite disability assessed at 18% for life.

The respondent was sanctioned service pension for life. However, his claim for disability element of pension was rejected on the ground that under Rule 53(a) of Pension Regulations for the Army, 2009 (Part-I), disability element cannot be granted when assessed disability is below 20%.

3. Aggrieved by the rejection of his claim, the respondent approached the Tribunal by filing OA No. 77/2022 seeking, inter alia, a direction to the petitioners herein to grant the benefit of disability element @ 20% against 14% for life from the next date of the discharge i.e., 01.02.2021 with the benefit of rounding off disability element from 14% to 50%.

4. The respondent's claim in the OA was resisted by the petitioners on the ground that unless the disability of the respondent as assessed by the medical authority is 20% or more, the disability element of pension cannot be granted.

5. The AFT considered the rival contentions in the light of law laid down by Hon'ble Apex Court in case titled ***Sukhvinder Singh vs. UOI and Ors.***, (2014) 14 SCC 364) and held that the respondent is entitled to the grant of disability element of disability pension for life treating the disability he incurred as 20% w.e.f. 01.02.2021 after being rounding it off to 50% in terms of the ratio of the judgment of the Hon'ble Supreme Court in case titled ***Union of India and Ors. vs. Ram Avtar***, (2014 SCC Online SC 1761).

6. Learned counsel for the petitioners submits that the AFT has committed a grave error in law by directing grant of disability element of pension despite the fact that the disability attributable to military service was assessed at only 14%. It is contended that under Regulation 173 of the Pension Regulations for the Army, 1961 and Regulation 53(a) of the Pension Regulations for the Army, 2008 (Part-I),

disability element of pension is admissible only when the accepted degree of disability is 20% or more.

7. Heard learned counsel for the parties and perused the material on record.

8. It is not in dispute that the Release Medical Board being the competent statutory authority assessed the composite disability of the respondent at 18% for life, with only 14% attributable to military service.

9. As per Regulation 53(a) of Pension Regulations for the Army, 2008 (Part - I), disability pension is eligible only when the disability is assessed at 20% or more and accepted as attributable to or aggravated by military service.

10. Regulation 53(a) of Pension Regulations for the Army, 2008 (Part - I) reads as under:-

"53. (a) An individual released/retired/discharged on completion of term of engagement or on completion of service limits or on attaining the prescribed age (irrespective of his period of engagement), if found suffering from a disability attributable to or aggravated by military service and so recorded by Release Medical Board, may be granted disability element in addition to service pension or service gratuity from the date of retirement/discharge, if the accepted degree of disability is assessed at 20 percent or more."

11. Since, the disability of the respondent was assessed @ 14% i.e. below 20%, therefore, condition for grant of disability pension does not fulfill in terms of Regulation 173 of Pension Regulations for the Army, 1961 (Part-I) revised as Regulation 53(a) of Pension Regulations for the Army, 2008 (Part-I) and, therefore, the competent authority has rightly

denied the claim of the respondent for grant of disability element.

12. The Hon'ble Supreme Court in case titled ***Union of India & Ors vs Wing Commander SP Rathore***, (2019) 19 SCC 84 has made it clear that disability element is inadmissible when disability percentage is below 20%. Para 9 of the aforesaid judgment being relevant is quoted as under:-

“9. As pointed out above, both Regulation 37 (a) and Para 8.2 clearly provide that the disability element is not admissible if the disability is less than 20%. In that view of the matter, the question of rounding off would not apply if the disability is less than 20%. If a person is not entitled to the disability pension, there would be no question of rounding off.”

13. In the present case, the respondent was not invalidated out on account of disability, but was discharged on completion of his terms of engagement. The reliance placed by the AFT on the judgments in *Sukhvinder Singh and Ram Avtar's* case (supra), is misplaced. The principle of rounding-off applies only after an individual is found eligible for grant of disability element and cannot be pressed into service to cross the minimum threshold of 20% disability. The AFT committed a manifest error in treating the respondent's disability as 20% and thereafter applying the principle of rounding-off to 50%.

14. Consequently, this Court holds that the respondent, whose disability attributable to military service was assessed at less than 20%, was not entitled to the grant of disability

element of pension, and the rejection of his claim by the competent authority was in accordance with law.

15. The writ petition is, therefore, **allowed**. The impugned order dated 08.12.2022 passed by the Armed Forces Tribunal, Srinagar Bench at Jammu in OA No. 77/2022 is set aside.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Jammu:
18.08.2026
Ram Murti

Whether approved for reporting: *Yes/No*