

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No.2550/2025

Pronounced on: 02.02.2026

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1. Union of India through its Secretary to Government of India,
Ministry of Defence, South Block, New Delhi-110011.
2. Principal Controller of Defence Accounts (Pension), Prayagraj.
3. OIC Records, Records The Sikh Regiment PIN-900450
C/o 56 APO

...Petitioners(s)

Through:- Mr. Vishal Sharma, DSGI with
Mr. Sumant Sudan, Advocate

Versus

No.3399506 Ex Sep Manjeet Singh, aged about 43 years
S/o Late Sh. Baldev Singh R/o Village Khour Deoian, R.S.Pura,
District Jammu (UT of J&K).

...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 14th July, 2022 passed by the Armed Forces Tribunal, Regional Bench Srinagar at Jammu [“AFT”] in TA No.03 of 2019 in SWP No.1885 of 2004 titled *Manjeet 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 and held the respondent entitled to disability pension @ 50% as against 20% for two years with a direction to the petitioners herein to constitute Re-survey Medical Board within a period of three months and thereafter proceed in the matter based on the opinion of the Re-survey Medical Board. Strong reliance has been placed by the AFT on *Dhahramvir Singh v. Union of India*, (2013) 7 SCC 316, *Union of India v. Ram Avtar*, 2014 SCC OnLine SC 1761 and *Sukhvinder Singh v. Union of India*, (2014) 14 SCC 364.

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. The facts, which are not in dispute, are that the respondent was enrolled in Indian Army on 15.05.1998 in a fit state of health. During the course of his service, the respondent incurred disability

“*Generalised Tonic Clonic Seizures*” and discharged on 31.12.2003. Before discharge, the respondent was brought before a duly constituted Release Medical Board, which assessed the disability incurred by the respondent “*Generalised Tonic Clonic Seizures*” @ 15-19% for two years, however, regarded the same as neither attributable to nor aggravated by military service. Respondent’s claim for grant of disability pension was, accordingly, rejected by the petitioners.

5. Feeling aggrieved, the respondent approached this Court by filing SWP No.1885/2004, which, on transfer to the Tribunal, was registered as TA No.03/2019 seeking *inter alia* a direction to the petitioners herein to release disability element of disability pension. The OA was contested by the petitioners herein and in the reply affidavit filed, the stand taken was that the invaliding disease in the case of the respondent was neither attributable to nor aggravated by military service and that even the assessed disability was only 15-19% which is less than 20%, hence he was not entitled to disability pension. It was submitted that the opinion of the Medical Board, being an expert body, was accepted and must be respected by the courts as well.

6. The AFT having considered the OA in the light of rival contentions of the parties and having regard to the legal and factual position obtaining in the matter, held the respondent entitled to disability pension @ 20% with the benefit of rounding off to 50% for two years with a direction to the petitioners to constitute Re-survey Medical Board to conduct medical examination of the respondent. It is

in these circumstances, the OA filed by the respondent came to be allowed.

7. This Court in a batch of writ petitions [WP(C) No. 3173/2023 a/w connected matters decided on 03.11.2025], has considered the issue with respect to the grant of disability pension to persons discharged/invalided out of service from armed forces and after considering the relevant rules, regulations and legal positions obtaining on the issue, culled out following principles:-

- i) *The grant of disability pension to the army personnel is not a charity or an act of generosity but a true act of acknowledge of the sacrifices made by them during their service, which manifest in the form of diseases and disabilities. The Pension Regulations and the Entitlement Rules framed by the Government of India for providing financial benefits to the soldiers and military personnel, who encounter diseases and disabilities which are attributable to or aggravated by military service are meant to provide absolute undiluted protection and recompense for the injury that leads to loss of service and leaves such soldiers without any effective means of sustenance. The Pension Regulations and the Entitlement Rules being in the realm of welfare measures must receive liberal interpretation and in case of any doubt or ambiguity, the interpretation must tilt in favour of the claimant/pensioner.*
- ii) *The nature and extent of disability or cause of death falls within the domain of medical experts and, therefore, the opinion of the medical board with regard to nature and extent of disease or disability should ordinarily be accepted as final, unless there is strong medical evidence on record to dispute such opinion. And even in such cases, the judicial review would be limited to the extent of directing the army authorities to consider review medical board for examination of the claimant.*

- iii) *That since the entitlement of a member of the force to disability pension depends largely on the opinion of the medical board, as such, it is obligatory on the medical boards to record clear and cogent reasons in support of their medical opinion. Absent such clear and cogent reasons in support of the medical opinion, it shall be presumed that the disease that afflicted the soldier during service was due to army service.*
- iv) *Under the 1982 Entitlement Rules, there was a presumption in favour of the claimant that he was in sound physical and mental condition when he joined the service except to a specific disability noted or recorded at the time of entrance into service. In the event of his subsequently being discharged from service on medical grounds, any deterioration of his health which has taken place, is due to service (Rule-5).*
- v) *A disease which has led to an individual's discharge or death shall ordinarily be deemed to have been arisen in service, if no note of it has been made at the time of individual's acceptance in military service. This is, however, subject to medical opinion holding, for reasons to be stated, that the disease was such as could not have been detected on medical examination prior to acceptance for service. Even if, in the circumstances aforementioned, disease is accepted as having arisen in service, the army authorities must establish that conditions of military service determined or contributed to the onset of the disease and that the conditions were due to circumstances of duty in military service. The onus of proof is not on the claimant and it is for the employer to demonstrate the conditions for non-entitlement of the claimant, for, there is a presumption in favour of the army personnel, who entered in service while being in fit physical and mental conditions and suffered from disease or disablement during service. This was the position precisely in the 1982 Entitlement Rules. However, in 2008 Entitlement Rules, there is no such presumption, yet the onus of proof is still on the employer to establish the disentitlement of the soldier to the benefit of disability pension on the prescribed grounds. It is only where claim for disability pension is lodged after 15 years, the initial onus will shift to the claimant.*

- vi) *That notwithstanding the removal of presumption of entitlement envisaged in the 1982 Entitlement Rules, the legal position has not undergone any substantial change. An army personnel, who is accepted in army service after proper physical and mental examination shall be deemed to possess sound physical and mental condition. The Army would not accept an individual, who is not mentally and physically fit for army service. Though, as is now provided under the 2008 Entitlement Rules, the examination at the time of entering into service shall be of general nature and would not be exhaustive to find out latent and hidden hereditary, constitutional or congenital diseases, yet any onset of such disease during service has to be certified to be so by the medical authorities supported by clear and cogent medical reasons.*
- vii) *In terms of Rule 15 of 1982 Entitlement Rules, if onset and progress of a disease is affected by environmental factors relating to service conditions, dietic compulsion, exposure to noise, physical and mental stress and strain or is due to infection arisen in service, such disease would merit entitlement of attributability. The possibility of pre-service history of such condition as may be certified by the medical authorities may rule out entitlement of attributability but would require consideration regarding aggravation. Annexure-III to the 1982 Entitlement Rules classifies the diseases which are affected by environmental factors in service and would serve as guide to find as to whether a particular disease or disability is attributed to or aggravated by army service.*
- viii) *However, the cases post 2008 Regulations and governed by 2008 Entitlement Rules would leave the attributability or aggravation to be determined by the medical authorities. The disease would be accepted as attributable to military service, if it has arisen during the period of military service and has been caused by the conditions of employment in military service. The diseases due to infection arisen during service, other than sexually transmitted diseases, shall be deemed to be attributable to military service. In the case of diseases where their cause is not known, there shall be presumption of entitlement in favour of the claimant that it is also attributable to military service unless such presumption is*

rebutted on the basis of clinical picture and current scientific medical application.

- ix) A disability shall be considered aggravated by service conditions, if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic conditions, environmental factors related to service conditions e.g. Fields, Operations, High Altitudes etc. This again would be subject to clear and cogent medical opinion by the competent medical authority.*
- x) A disease or disability shall not be held attributable to or aggravated by military service unless a causal connection between the disability or death and military service has been established by appropriate authority.*
- xi) That the Guide to Medical Officers (Military Pension), 1980 as amended from time to time shall be kept in mind by the medical boards and the authorities concerned to determine as to whether disability or death is due to military service i.e. either attributable to or aggravated by military service.*
- xii) The amendments to Chapter-VI to Guide to Medical Officer (Military Pensions), 2008 analyze different type of diseases and lay down guidelines to determine whether a particular disease is attributable to or could be aggravated by military service. Diseases like, hypertension, diabetic mellitus, Ischaemic Heart Disease (IHD) etc etc. find mention in paragraph 43, 26 and 47 of the GMO, 2008 and serve as broad guide to determine attributability or aggravation aspects.*
- xiii) Burden to disprove the acceptance of causal connection between disability and the military service is on the authorities and the same cannot be said to have been discharged by any inchoate, casual, perfunctory or vague approach of the authorities. This underlines the profound significance of the requirement of recording reasons by the medical board(s).*
- xiv) That so long as it is established that the disability or death bears causal connection with the service condition, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace condition (Regulation 423 of the Regulations for Medical Services to Armed Forces, 2010).*

8. In view of the aforesaid legal position, the only question that begs determination in this case is whether opinion of the medical board, which assessed the disability incurred by the respondent as neither attributable to nor aggravated by military service can be relied upon to justify the disentitlement of the army personnel to the disability element of pension in respect of his military service.

9. Before we proceed further, it needs to be taken note of that respondent having been discharged for disablement in the year 2000 is covered by 1961 Regulations read with 1982, Entitlement Rules. As provided in 1982, Entitlement Rules, Guide to Medical Officers (Military Pension), 1980, as amended from time to time, is required to be read with the said Rules.

10. In terms of 1982, Entitlement Rules, a member is presumed to have been in sound physical and mental condition upon entering service except as to physical disabilities noted or recorded at the time of entrance and in the event of his subsequent being discharged from service on medical grounds any deterioration in his health which has taken place is due to service.

11. It is not in dispute that when the respondent was accepted in army service he was found physically and mentally fit by the authorities as no note of any disease recorded at the time of his acceptance in army service, therefore, the disease, which led to his discharge from army service occurred during service is due to service.

To disentitle him from claiming disability element of pension, the petitioners must plead and demonstrate that the disability which the respondent was found inflicted with at the time of his release from army service had though arisen during service was neither attributable to nor aggravated by military service. The burden to prove absence of causal connection between the disability and military service was also on the petitioners.

12. In the absence of any note having been recorded at the time of acceptance of the respondent in Army service with regard to any disease, the disability which the respondent has incurred during army service is to be regarded as due to service as per the explicit provisions contained in Rule 5 of the 1982, Entitlement Rules. To negate this presumption, strong medical evidence is required, which, in the instant case is completely lacking. For facility of reference, the relevant portion of the medical record, which is part of the paper-book is reproduced hereunder:-

Disability	Attributable to Service (Y/N)	Aggravated by service	Not connected with service	Reason/Cause/Specific condition and period in service
Generalised Tonic Clonic Seizures	No	No	Yes	Disease being constitutional

13. As per the ratio of the judgment rendered by the Supreme Court in the case of *Sukhvinder Singh* (supra), whenever a member of the armed forces is invalided out of service, it perforce has to be assumed that his disability was found to be above 20%. The plea that rounding

off should not have been permitted in favour of the respondent, who was not invalidated out of service because of disability but retired on attaining normal superannuation, too, has been set at rest by the Supreme Court and different High Courts. The rounding off is applicable even to the cases where the army personnel retires on normal superannuation with a disability incurred by him during the course of his service provided such disability is either attributable or aggravated by military service. This view has been affirmed by the Supreme Court in the case of **Ram Avtar (supra)**.

14. For all these reasons, we find no illegality or infirmity in the judgment passed by the AFT. The writ petition is, therefore, found devoid of any merit, the same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
02.02.2026
Vinod

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