

CWP No.1947 of 2025 and
CACP No.69 of 2025 (O&M)
CWP No.20290 of 2025 (O&M)

2025:PHHC:097554-DB



S. No.191

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision:28.07.2025

1. CWP No.1947 of 2025

Union of India and others	Petitioners
Vs.	
No.13742023 Ex Nk Milap Chand and another	Respondents

2. CACP No.69 of 2025

Dr. Niten Chandra	Petitioner
Vs.	
Armed Forces Tribunal, Regional Bench Chandigarh at Chandimandir and another	Respondents

3. CWP No.20290 of 2025

Union of India and others	Petitioners
Vs.	
No.33375148N Ex Sepoy Subhash and another	Respondents

**CORAM:- HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE KULDEEP TIWARI**

**Present:- Ms. Promila Nain, Senior Panel Counsel for
Union of India- petitioners.**

**Mr. Navdeep Singh, Advocate, Mr. Deepak Sharma
and Ms. Roopan Atwal, Advocates and
Col. S.N. Sharma, for the respondents.**

ASHWANI KUMAR MISHRA, J. (Oral)

As the issue involved in this bunch of 3 petitions is identical, these are being disposed of vide a common order and judgment. However, for facility of reference, the facts are being derived from CWP No.1947 of 2025.



2. This petition i.e. CWP No.1947 of 2025 is filed by the Union of India assailing an order of the Tribunal dated 25.02.2020 (Annexure P.1) passed in OA No.2118 of 2019. The Tribunal by its judgment has granted the benefit of disability pension to the applicant- respondent, who was granted re-employment in Defence Security Corps (hereinafter referred as, 'the DSC') and had been discharged. The Tribunal has relied upon the judgment of the Supreme Court in **Union of India and others Vs. Ram Avtar – Civil Appeal No.418 of 2012** decided on 10.12.2014 to grant following relief:-

“11. The question now arises as to whether the applicant is entitled to the benefit of rounding off in this case by virtue of the judgment of the Hon'ble Supreme Court rendered in **Civil Appeal No.418 of 2012 (Union of India and others Vs. Ram Avtar) decided on 10.12.2014** and according to this judgment, the applicant is entitled to the benefit of rounding off. So, he is entitled to the benefit of disability pension @50% as against 40% for life.

12. The Original Application is, accordingly, allowed. The respondents are directed to calculate the arrears accordingly and to pay the same to the applicant within a period of three months from the date of receipt of a certified copy of this order by the learned counsel for the respondents/ OIC, Legal Cell, failing which the arrears shall carry an interest @ 8% p.a from the date of this order.

3. This order of the Tribunal passed in the month of February, 2020 is sought to be assailed by filing a petition on 08.11.2024. There is absolutely no reason disclosed in the petition as to why such a belated attempt is made to assail the judgment of the Tribunal. However, we have proceeded to examine the grievance of the petitioner on merits as well.

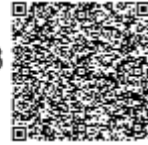
4. The undisputed facts giving rise to the case are as under:-

The respondent- Milap Chand was employed in Indian Army on 17.01.1979 on the post of Sepoy. He was discharged from the post of Naik on



01.10.1998. It is not in dispute that for this period of engagement, the respondent has been granted service pension along with gratuity. It is after expiry of about four years that the respondent- Milap Chand was then engaged in DSC on 30.09.2002. He has been invalided out on 01.01.2017. The extent of disability certified by the competent authority is 40%. The Tribunal relying upon the judgment in a series of cases by the Hon'ble Supreme Court has held the respondent to be entitled to disability pension by rounding it off to 50%. This is as against 40% of the disability for life determined by the relevant competent authority. For the purpose of granting such benefit, the Tribunal has also referred to Regulation 179 of the Pension Regulations for the Army, 1961. The writ petition has been filed assailing the order of the Tribunal primarily on the ground that the respondent could not have been treated to have been invalided out, inasmuch as the provisions, as have been relied upon by the Tribunal i.e. Regulation 179 has been mis-quoted and misread. An attempt is also made to contend that the pension for service element would also not be admissible to the respondent since his period of engagement was below 15 years.

5. Mr. Navdeep Singh, Advocate, appearing for the respondent has opposed the contention of the petitioner relying upon the various provisions of the Army Regulations to contend that the issue sought to be raised by the Union of India has been successively rejected not only by this Court but also by other High Courts and the Supreme Court. Learned counsel submits that repeated attempts to revive the same contention is clearly resulting in harassment for the retired defence persons.



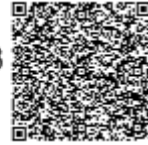
6. We have heard learned counsel for the parties and have perused the material carefully. In order to appreciate the controversy raised before us, we may refer to some of the provisions that regulate the payment of pension to a defence personnel employed in DSC. On behalf of the petitioners, reliance is placed upon a photocopy of a document allegedly containing the extract of the Pension Regulations for the Army, 1961. The text of Regulation 179 as is relied upon by the petitioner reads as under:-

“179. A Junior Commissioned Officer retired on completion of tenure or of service limits, if suffering on retirement from a disability attributable to or aggravated by military service and recorded by Service Medical Authority, may, at the discretion of the President, be granted in addition to the service pension admissible a disability element as if he had been retired on account of the disability.

(b) The disability element shall be assessed on the accepted degree of disablement at the time of retirement, on the basis of the rank held on the date on which the wound /injury was sustained, or in the case of a disease, on the date of first removal from duty on account of that disease.”

7. On the strength of the above provision, it is submitted that Regulation 179 as is recited in the order of the Tribunal contains an incorrect text and, therefore, the judgment of the Tribunal is unsustainable. Regulation 179 as is extracted in the judgment of the Tribunal, reads as under:-

“179. An individual retired/ discharged on completion of tenure or on completion of service limits or on completion of terms of engagement or on attaining the age of 50 years (irrespective of their period of engagement), if found suffering from a disability attributable to or aggravated by military service and recorded by Service Medical Authorities, shall be deemed to have been invalided out of service and shall be granted disability pension from the date of retirement, if the accepted degree of disability is 20 percent or more, and service element if the degree of disability is less than 20 percent. The service pension/ service



gratuity, if already sanctioned and paid, shall be adjusted against the disability pension/ service element, as the case may be.

(2) The disability element referred to in clause (1) above shall be assessed on the accepted degree of disablement at the time of retirement/ discharge on the basis of the rank held on the date on which the wound/injury was sustained or in the case of disease on the date of first removal from duty on account of that disease”.

8. In order to appreciate the argument advanced on behalf of the petitioner, it will be appropriate to refer to the provisions of the Pension Regulations for the Army, 1961. So far as the employees of Defence Security Corps are concerned, there is a separate chapter in the Pension Regulations for the Army, 1961. Regulations 265 and 266 of the said Regulation, as are applicable upon DSC Employees, reads as under:-

“265. Unless otherwise provided, the regulations in this chapter shall apply to personnel of the Defence Security Corps who were in service on the 1st January 1986 and who joined or join service on or after that date.

266. The grant of pensionary awards to personnel of the Defence Security Corps shall be governed by the same general rules as are applicable to combatants of the Army, except where they are inconsistent with the provisions of the regulations in this chapter.”

9. The amount of disability pension is specified in Regulation 280 which is a part of the same Chapter and is hereinafter reproduced:-

Amount of disability pension

280. The disability pension consists of two elements viz. service element and disability element which shall be assessed as under:-

(1) Service element

(a) Where the individual has rendered sufficient service to earn a service pension i.e. actual service is 15 years or

(i) Equal to normal service pension relevant to the length of qualifying service actually rendered, plus a weightage of



more (20 years or more in the case of NCs (E)	5 years as given in Regulation 271 (b).
(b) Where the individual has not rendered sufficient service	(i) If the disability was sustained to while on flying or parachute jumping duty in an aircraft or while being carried on duty in an aircraft under proper authority:
Qualify for a service pension.	The minimum service pension appropriate to his rank (see regulation 271) and group, if any.
	(ii) In all other cases:
	Equal to the service pension as determined per Regulation 271 (b), but it shall in no case, be less than 2/3rd of the minimum service pension admissible to the rank/pay Group. It shall be further subject to a minimum of Rs.375/- p.m.

Note- With effect from 28th November 1962 and for so long as similar orders exist in respect of Central Civil Government servants, the provisions of clause (i) above shall also apply to flights in non-service, i.e., Civil or Chartered, aircraft.

In the case of D.S.C. personnel service pension for former service of an individual held in abeyance under Regulation 267(d) on his re-enrolment in the D.S.C. shall be restored as service element of disability pension on termination of his re-employment in D.S.C., if it is more than the service pension admissible under Reg. 271 for the service in D.S.C. [Auth: MOD letter No. 1(2)/84/(Pen-C) dated 29/5/86]

(2) Disability element

For 100 percent disablement the rates of disability element will be as follows :-



Rank	Disability element
JCOs granted Honorary Commission while on the effective List:	Rs. P.M. 750/-
JCOs	550/
Other Ranks/NCs (E)	450/-

For lower percentages of disablement down to 20 percent the rates will be proportionately reduced.

Provided that where permanent disability is not less than 60% the disability pension (i.e., total of service element and disability element shall not be less than the special family pension admissible vide Regulation 213 i.e., it shall not be less than 60% of the reckonable emoluments [Pay+ Classification pay, if any, last drawn] Subject to a minimum of Rs.750/-P.M. and maximum of Rs.2, 500/- p.m. [Auth. MD letter No 1(5)/87/D- (Pension/Services) dated 30/10/87]

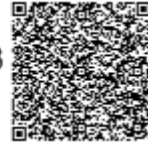
In case where an individual is invalided out of service before completion of his prescribed engagement/service limit on account of a disability which is attributable to or aggravated by military service and is assessed below 20 percent, he will be granted an award equal to service element of disability pension determined in the manner given in Regulation 183 Pension Regulations for the Army Part I (1961), read with Appendix `A' to AI I/S/75 and Annexure I & II to AI 3/S/75. This benefit will also be allowed in all cases where an individual is granted disability pension but whose degree of disablement subsequently falls below 20 percent.

Note-In the case of a re-employed pensioner who was in receipt of pension in addition to pay and allowances under regulation 120 and clause (b) of regulation 121 only disability element will be admissible in addition to the service pension already in issue.

Subject to the same conditions as are applicable to combatants of the Army, the amount of disability pension consisting of service and disability elements will be as follows: -

(1) Service element

(a) Where the individual has rendered sufficient service to earn a service pension.	Service pension admissible under regulation 271 according to his rank and length of service.
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(b) Where the individual has not rendered sufficient service to qualify for a service pension.

(i) If the disability was sustained while on flying duty in a service aircraft or while being carried on duty in a service air-craft under Proper authority.

The minimum service pension appropriate to his rank under, reputation 271

(ii) In all other cases.

That proportion of the minimum service pension appropriate to the individual's rank which the number of his completed years of qualifying service' bears to 15, but in no case less than two third of the minimum service pension.

(emphasis supplied)

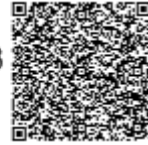
(2) Disability Element

The rates of disability element for 100% disability for the various ranks shall be as follows: -

Rank	Amount p.m.
(i) Commissioned Officers and Honorary Commissioned Officers of the three services, MNS, TA and DSC	Rs. 750/-
(ii) Junior Commissioned Officers and equivalent ranks of the three services, TA and DSC	Rs. 550/-
(iii) Other Ranks/NCs (E) of the three services TA and DSC	Rs. 450/-

For disabilities less than 100% but not less than 20% the above rates shall be proportionately reduced.

Provided that where permanent disability is not less than 60%, the disability pension (i.e. total of service element and disability element) shall not be less than the special family pension admissible vide Regulation 282 (b) i.e. it shall not be less than 60% of the reckonable emoluments subject to a minimum of Rs. 750/-p.m.

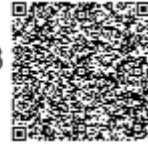


10. The Regulations of 2008 insofar as it relates to Regulation 280 contains no change. The corresponding provision to Regulation 280 in the Pension Regulations for the Army, 1961 is Regulation 98 of the Regulations of 2008.

11. The Tribunal has proceeded on the factual premise that the respondent was discharged as having been invalidated out. The oral submission advanced before us that the respondent was not invalidated out is in apparent conflict with the pleading made in the writ petition. Para 3(ii) of the writ petition filed by the Union of India contains following assertion of fact:-

“3(ii) That, thereafter, respondent no.1 was enrolled in Defence Security Service (DSC) on 30.09.2002 and was invalidated out of service w.e.f. 01.01.2017 after rendering services for 4 years 3 months and 28 days.”

12. We are, therefore, not impressed by the petitioner’s argument that the respondent was not invalidated out. Even otherwise, we find that the Tribunal in para No.9 has referred to Rule 280 of the Pension Regulations for the Army related to DSC Service Personnel to observe that Disability Pension consists of two elements i.e. Service Element and Disability Element. Clause 1(b) of Regulation 280 relates to a case wherein an individual has not rendered sufficient service to qualify for service pension. The corresponding mode of calculation is contained in right column and where such a person has not completed sufficient qualifying service for a service pension, the person is entitled to service pension as determined in Regulation 271(B) such that it cannot be less than 2/3rd of the minimum service pension admissible to the rank/ pay group. The Tribunal apparently has non-suited the petitioner by relying upon Regulation 280 which is

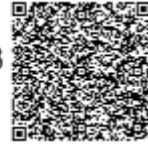


not limited to a personnel who is invalided out. Even if we keep aside the provisions contained in Regulation 179 yet the entitlement of respondent would flow from Regulation 280 which would be applicable to respondent- Milap Chand who was in Defence Service Corps. Being an employee of DSC, he would be entitled to Disability Pension on account of Regulation 280. The argument of the petitioner in that regard, therefore, must fail.

13. Coming to aspect of service element not being included in disability pension, we find that this issue has been settled by the Supreme Court in **Union of India Vs. V.R. Nanukuttan Nair, 2019(19) SCC 690**. After referring to identical provisions in respect of ex-navy personnel, the Supreme Court held as under:-

20) Still further, the [Regulation 107](#) providing service element in the event of an individual who has not completed the qualifying service will become otiose. A reading of all the regulations harmoniously and keeping in view the object of grant of disability pension, we find that the interpretation which advances the object and purpose of the grant of disability needs to be accepted being a beneficial provision for a class of individuals who have suffered disability in the course of duty.

21) The quantification of disability pension in the cases of an individual, who has not completed qualification service is dealt with in [Regulation 107](#). Sub-clause (a) of Clause (1) of [Regulation 107](#) deals with the situation where the individual has rendered sufficient service to qualify for a service pension i.e. 15 years of service in terms of [Regulation 78](#). However, sub-clause (b) comes into play where the individual has not rendered sufficient service to qualify for service pension. In cases where the disability was suffered while flying or parachute jumping, the minimum service pension is appropriate to his rank and group but in all other cases, the service pension is restricted to minimum of two-thirds of the minimum service pension. For such

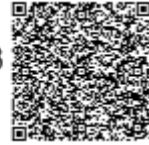


reason, the disability element would be in addition to the service pension by cumulative reading of [Regulation 78](#), [Regulation 105B](#) and [Regulation 107](#) of the Regulations. The service pension is to be assessed on the basis of the minimum service pension laid down for an able individual of the same group in [Regulation 107](#) of the Regulations.”

14. The judgment of the Supreme Court in **V.R. Nanukuttan Nair (supra)**, has been consistently followed by this Court in a series of cases including CWP No.19497 of 2024, Union of India Vs. Satpal Singh, Writ Petition No.30276 of 2024 – Union of India Vs. Charanjit Singh and by Himachal Pradesh High Court in CWP No.757 of 2024 - Union of India and others Vs. Joginder Lal.

15. The plea raised by the petitioners before this Court was earlier attempted to be revived before different High Courts, from time to time. An attempt was also made to raise such issue before the Kerala High Court in CWP No.41150 of 2024, which has been decided on 22.05.2025. The Kerala High Court has taken note of the Regulation 98 of the 2008 Regulations and relying upon the judgment of the Supreme Court in **V.R. Nanukuttan Nair (supra)**, proceeded to take the view similar to the one taken by this Court and other High Courts.

16. We are not impressed by the attempt of Union of India to make out a case by merely referring to some judgments where the issue has been remitted back. What has to be followed is the ultimate determination of the cause. No judgment taking a contrary view from what has been held by the Supreme Court in the case of **V.R. Nanukuttan Nair (supra)** has been placed before us.



17. In view of what has been observed above, we hold that there is absolutely no merits in the contention advanced on behalf of the petitioner to challenge the judgment of the Tribunal dated 25.02.2020. We are rather pained by the fact that the Union of India is filing such petitions after expiry of more than four years during which term the judgment of the Tribunal has not been challenged. It transpires that the Tribunal proceeded to execute its judgment by noticing that sufficient period has expired and the judgment of the Tribunal has not been implemented. It proceeded to pass orders in contempt proceedings. Those proceedings were then challenged before this Court in CWP No.13365 of 2025. Pursuant to the order passed in such petition, the writ petition has been converted to an appeal under Section 19 of the Contempt of Courts Act and registered as CACP No.69 of 2025. An interim protection has been granted as a result of which the judgment of the Tribunal passed in the year 2020 has so far not been complied. We expect the Union of India to be more considerate and sympathetic towards the cause of ex-servicemen, who have served the nation with utmost dedication and sincerity. Once, their entitlement has been determined on the basis of provisions contained in the Army Regulations, it is not expected that the Union of India would continue to rake up such issues so as to deny the benefit admissible to the ex-army men. We deprecate the practice of filing such writ petitions. However, in view of the request made by the learned counsel for the petitioners, Ms. Promila Nain, Advocate, we refrain from imposing any exemplary cost upon the petitioners.

CWP No.1947 of 2025 and
CACP No.69 of 2025 (O&M)
CWP No.20290 of 2025 (O&M)

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18. In the light of the deliberations made above and subject to the observations afore-said, the Writ Petition No.1947 of 2025, CACP No.69 of 2025 (O&M) and CWP No.20290 of 2025 are dismissed.
19. All pending applications, if any, stand disposed of.
20. Registry is directed to send a copy of this order to the Armed Forces Tribunal, Regional Bench, Chandigarh, at Chandimandir.

(ASHWANI KUMAR MISHRA)
JUDGE

(KULDEEP TIWARI)
JUDGE

July 28, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No