



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

111

CWP-10741-2025

Date of Decision: 18.08.2025

UNION OF INDIA AND OTHERS

...Petitioners

Versus

KAMALA DEVI AND ANOTHER

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present:- Ms. Neha Jaggi, Senior Panel Counsel,
for the petitioners.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the challenge is to the impugned order dated 08.07.2022 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'Tribunal') by which, respondent No.1 has been granted the benefit of Special Family Pension instead of Ordinary Family Pension from 18.08.1998, i.e. the day next to the date of death of her husband i.e. on 17.08.1988, on the ground that the same is perverse.

2. Learned counsel for the petitioners submits that in the present case, the late husband of respondent No.1 was suffering from the disease 'Disseminated Onobeco Carcinoma'. She argued that the disease from which the late husband of respondent No.1 died was 'neither attributable to



Military Service nor aggravated by the Military service' and therefore, the order dated 08.07.2022 (Annexure P-1) passed by the Tribunal recording the finding that the death of the husband of respondent No.1 due to the disease 'Disseminated Onobeo Carcinoma' is attributable to the military service, may kindly be set aside.

3. We have heard learned counsel for the petitioners and have gone through the case file with her able assistance.

4. It may be noticed that the husband of respondent No.1 was recruited in the Army on 08.04.1985 and at the time when he joined the armed forces, husband of respondent No.1 was medically examined and was not found suffering from any such disease, due to which he died on 17.08.1988.

5. As per the settled principle of law settled by Hon'ble Supreme Court of India in ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316***, which has also been considered by the Tribunal in the impugned order dated 08.07.2022 (Annexure P-1), any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was not found suffering from any such disability/disease at that time on the basis of which, he/she died, such an employee is entitled for the benefit of presumption in his/her favour as per Rule 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982' that the said disease has been contracted by the employee during his service career and thus, his/her heirs are entitled for the benefit of pension. The relevant para No.30, 32 and 33 of the judgment in ***Dharamvir Singh's*** case (supra) is as under:-



30. In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by hereditary he is suffering from such disease. In absence of any note in the service record at the time of acceptance of joining of appellant it was incumbent on the part of the Medical Board to call for records and look into the same before coming to an opinion that the disease could not have been detected on medical examination prior to the acceptance for military service, but nothing is on the record to suggest that any such record was called for by the Medical Board or looked into it and no reasons have been recorded in writing to come to the conclusion that the disability is not due to military service. In fact, non-application of mind of Medical Board is apparent from Clause (d) of paragraph 2 of the opinion of the Medical Board, which is as follows:

“(d) In the case of a disability under C the board should state what exactly in their opinion is the cause thereof. YES Disability is not related to mil service”

32. In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In



absence of any evidence on record to show that the appellant was suffering from "Generalised seizure (Epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service.

33. As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is not attributable to service, 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 conditions.

"Classification of diseases" have been prescribed at Chapter IV of Annexure I; under paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a casual connection with the service conditions."

6. It may be noticed that the disease from which the husband of respondent No.1 was suffering and ultimately died does not occur instantaneously but is the result of the constant stress suffered by the patient concerned. For a period of 03 years, the husband of respondent No.1 was serving in the Army and keeping in view the various postings and the stress which was caused, it can be easily co-related that the said stress and strain which was related to the job profile of the husband of respondent No.1 was responsible for the death of the husband of respondent No.1 and no evidence has been brought on record to rebut the said presumption.



7. In the present case, the Tribunal has even considered the relevant instructions and the decision taken by the Government that unless and until the disease of cancer occurred due to the habit of smoking to the officer concerned, the same has to be treated attributable to the military service. In the present case, nothing evident has come on record that the officer concerned was in habit of smoking or the smoking has been detected as a cause of the cancer which led to the death of the officer concerned. The same has been dealt extensively by the Tribunal while passing the impugned order and rather, it has concluded that the strain and stress can also be the origin of the cancer.

8. Keeping in view the settled principle of law settled in ***Dharamvir Singh's*** case (supra) and the facts and circumstances of the present case that at the time of selection, husband of respondent No. 1 was medically examined and was found fit in all respects and it was only after the husband of respondent No. 1 rendered service for 03 years with the petitioner-UOI, he was found to be suffering from the 'Disseminated Onobeo Carcinoma' along with the fact that no cogent evidence/material or detailed medical record has been brought on record to show this Court that the disease is not attributable to military service. That being so, the said disease has to be attributed to the military service and the report of Medical Board cannot take away the right of respondent No.1 to claim the benefit of Special Family Pension.

9. No other argument has been raised.

10. Hence, in the absence of any perversity being pointed out in the impugned order dated 08.07.2022 (Annexure P-1) either on the basis of the



facts or the settled principle of law, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

11. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 18, 2025
harish

Whether speaking/reasoned	Yes
Whether reportable	No