

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CWP-5964-2022 (O&M)

Date of Decision :18.11.2025

Ex Sep Jagwant Singh

...Petitioner

Versus

Union of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Mr. Rajesh Sehgal, Advocate for the petitioner.

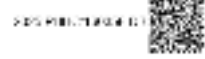
Mr. Anil Chawla, Senior Panel Counsel
for respondent-UOI.

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HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present petition, challenge is to the impugned order dated 07.11.2012 (Annexure P/8) passed by the Armed Forces Tribunal, Regional Bench Chandigarh (hereinafter referred to as 'the Tribunal') by which, the claim of the petitioner for the grant of benefit of disability pension has been declined on the ground that the disability which has been suffered by the petitioner i.e. Schizophrenia (F-20) @ 50% for life w.e.f. 10.12.2007 is neither attributable to nor aggravated by military service.

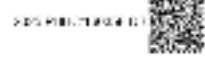
2. Learned counsel for the petitioner argues that the Tribunal has declined the grant of benefit of disability pension to the petitioner only on the ground that the Medical Board has opined that the disability suffered is neither attributable to nor aggravated by military service and nothing has come on record to dispute the said finding and therefore, the benefit of



disability pension cannot be extended to the petitioner whereas, the same Medical Board has held that the said disability was not in existence at the time of entry of the petitioner into service and qua the question whether the said disability could have escaped the notice at the time of entry into service, the Medical Board opined as “No” hence, once, the petitioner is to be treated fit at the time of entry into service, as per the settled principle of law settled by the Hon’ble Supreme Court of India in ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316*** in a case where army personnel is found to be fit at the time of enrolment, and has suffered a disability during his service career, the same is presumed to have been aggravated by and attributable to military service hence, the order passed by the Tribunal is contrary to the settled principle of law settled in ***Dharamvir Singh’s case (supra)*** as well as to the facts which have been brought on record and the same may kindly be set aside and the petitioner be granted the benefit of disability pension.

3. Learned counsel for the respondent-UIO submits that the Medical Board examined the petitioner-soldier, who was invalidated out from service due to low medical category within a period of one year of joining service and by clear opinion that the disability suffered by the petitioner was neither attributable to nor aggravated by military service and no document has been brought on record to show that the said disability is attributable to the military service hence, the impugned order passed by the Tribunal is perfectly valid and legal.

4. Learned counsel for the respondent-UIO further submits that there is no averment in the petition that the disability due to which the petitioner was discharged from service, was not suffered at the time of



recruitment and in the absence of any such averment, the judgment in ***Dharamvir Singh's case (supra)*** is not applicable in the case of the petitioner so as to claim benefit of disability pension.

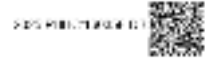
5. We have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The first question which arises is, whether the petitioner was suffering from 'Schizophrenia' at the time he entered into service. Once, the Medical Board has looked into said aspect and opined that the said disease due to which the petitioner was discharged from service, was suffered by him during his service career only and the same was not in existence at the time of his initial entry into service, learned counsel for the respondent-UIO cannot be allowed to argue that there is no averment in the writ petition that the petitioner was not suffering from the disability in question at the time of entry into service.

7. Further, not only this, the Medical Board has looked into the aspect as to whether, the disability which was suffered by the petitioner could have gone undetected at the time of initial entry into service and the same was opined by the Medical Board as "No", hence, the disability has to be treated as coming into existence during his service career of the petitioner even if, the total length of service of the petitioner was one year.

8. The averment that the said disability started when the petitioner first heard his colleague died, that could be a possibility of triggering the said disease in petitioner which led to his discharge from service.

9. It should be noted that as per judgment in ***Dharamvir Singh's case (supra)*** in a case where army personnel is found to be fit at the time of enrolment, and has later found to be contracted with a disease, same is



presumed to have been aggravated by and attributable to military service.

The relevant para Nos.30, 32 and 33 of the judgment in ***Dharamvir Singh's*** case (supra) are 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."

10. Further, with regard to the grievance of respondents qua the benefit of rounding off of disability granted to petitioner, the same issue has been settled by the Hon'ble Supreme Court of India in **Ram Avtar's case (supra)**, wherein it has been held that any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her enrolment and was found fit and is subsequently found to be suffering with a disability, is entitled to the benefit of disability pension by rounding off the



same as the presumption would be in favour of such employee, that the disability suffered during the service is attributable to military service.

Relevant paras of the judgment in **Ram Avtar's** case (supra) are as under:-

“4. By the present set of appeals the appellant(s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding-off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No. 1(2)/97/D(Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.

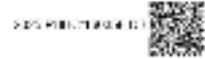
5. We have heard learned counsel for the parties to the lis.

6. We do not see any error in the impugned judgment(s) and order(s) and therefore all the appeals which pertain to the concept of rounding-off of the disability pension are dismissed, with no order as to costs.

7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.”

8. Learned counsel for the respondents has not been able to dispute the said proposition of law having been settled by the Hon'ble Supreme Court of India in **Dharamvir Singh's** case (supra) and **Ram Avtar's** case (supra) to the effect that percentage of disability is to be rounded off and in the present case, the disability of 50% is to be rounded off to 75%.

11. Further, in a recent judgment in **Civil Appeal No.11311 of 2025 titled as Union of India and others vs. Reet MP Singh and another, decided on 01.09.2025**, the Hon'ble Supreme Court of India by placing



reliance upon *Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761* as well as *Bijender Singh vs. Union of India and others, 2025 SCC Online SC 895*, has again reiterated that the benefit of rounding off the disability element cannot be denied.

12. Keeping in view the facts and circumstance of the present case as well as the settled principle of law settled in *Dharamvir Singh's* case (supra), *Ram Avtar's* case (supra) as well as *Reet M.P. Singh (supra)* once at the time of enrolment, petitioner was medically examined and was found to be fit in all respects and it was only during his service period that petitioner was found to be suffering from '*Schizophrenia (F-20)*' that being so, the said disability has to be attributed to the military service so as to claim the benefit of disability pension and that too, by rounding off the disability from 50% to 75%.

13. Keeping in view the above, impugned order dated 07.11.2012 (Annexure P-8) passed by the Tribunal being perverse to the settled principle of law as well as the facts which had been brought on record, is set aside. The petitioner is held entitled for the grant of benefit of disability pension from the date he was discharged from service along with arrears and interest @ 6% per annum.

14. Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

15. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

November 18, 2025

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Whether speaking/reasoned : Yes

Whether reportable : No