



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

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CWP-12793-2025

Date of Decision: 20.08.2025

Union of India and others

....Petitioners

Versus

Om Prakash and another

....Respondents

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

Present: Mr. S.K.Sharma, Senior Panel Counsel
Mr. Rajat Sharma, Advocate for the petitioners.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 14.02.2023 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal') by which, the benefit of disability pension has been granted to respondent No.1 by rounding off the same to 50% from the assessed 15% - 19% disability.

2. Learned counsel for the petitioners argues that though, the disability of '*Irritable Bowel Syndrome*', which was brought before the Release Medical Board, the same has been opined by the Medical Board to be aggravated by the military service however the degree of the same was less than 20% as the same was assessed as between 15% to 19% and therefore, the benefit of disability pension could not have been granted to respondent No.1 but, by passing the impugned order, the said benefit has been granted in favour of respondent No.1.

3. We have heard learned counsel for the petitioners and have gone



through the record with his able assistance.

4. It is a conceded fact that the disability of respondent No.1 has been assessed as 15% to 19% and the said disability has been found to be attributable to the military service. As per the judgment of the Hon'ble Supreme Court of India in Civil Appeal No.5605 of 2010 decided on 25.06.2014 titled ***Sukhvinder Singh vs. Union of India and others***, any disability which has been made the basis for discharge of an employee, the same has to be treated at a minimum of 20%. The relevant paragraph of the judgment is as under:

“We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount to granting a premium to the Recruitment Medical Board for their own negligence. Secondly, the morale of the Armed Forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined. Thirdly, there appear to be no provisions authorising the discharge of invaliding out of service where the disability is below 20 percent and seems to us to be logically so. Fourthly, 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%. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty percent disability pension.”

5. Once, as per ***Sukhvinder Singh's case (supra)*** the disability



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which has been made as basis of invalidation has to be treated as 20%, the respondent becomes entitled for the benefit of disability pension, which fact has gone unrebutted at the hands of petitioners.

6. Further, as per the judgment of the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar***, 2014 SCC Online SC 1761, the disability of 20% is to be rounded off to 50% which judgment has been conceded by the learned counsel for the petitioners even during the argument. Hence, the judgment in ***Sukhvinder Singh's case (supra)***, when applied in case of respondent will lead to the conclusion the benefit given by the Tribunal vide order impugned is correct and it cannot be said that the impugned order passed by the Tribunal is perverse either on facts on record or on settled principle of law.

7. No other argument has been raised.

8. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

9. Accordingly, the writ petition is dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 20, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No