



125

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-12650-2025****Date of Decision : 28-08-2025****UNION OF INDIA AND ORS.****.....Petitioner(s)****VERSUS****No.1269952 EX. RECT RAMPHAL (SINCE DECEASED) THROUGH
SMT KAMLESH DEVI AND ANR****.....Respondent(s)****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Ms. Neha Jain, Senior Panel Counsel
For the petitioner-Union of India.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 01.10.2024 (Annexure P-4) passed by the Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal), by which, the benefit of disability pension has been allowed in favour of respondent No.1 by rounding off the disability element which was assessed at between 15% to 20%, and was further treated as 20% to be rounded off to 50% for life on the ground that the same is perverse.

2. Learned counsel for the petitioners submits that the disability pension cannot be allowed as the disability was assessed less than 20% which is minimum for the grant of benefit of disability pension hence, the Tribunal exceeded its jurisdiction while granting the relief of rounding off @ 50% as against 20% while passing the order dated 01.10.2024 (Annexure P-4).

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

3. It is a conceded fact that at the time when the respondent No.1 was invalidated, he was granted the disability pension keeping in view the disability suffered by the officer concerned.

4. Merely that the disability was reduced to 15% in the Re-Survey Medical Board, which was conducted in November, 2019 and his disability was assessed at 15% for life, the respondent No.2 could not have stopped the disability pension keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.5605 of 2010*** titled ***Sukhvinder Singh vs. Union of India and others***, decided on 25.06.2014, wherein it has been mentioned that the injury even if the same is less than 20%, but for the purpose of the grant of pension, the same has to be treated as 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. Further, with regard to the grievance of petitioners qua the 'rounding off of disability pension' the same issue has been settled by the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar***, 2014 SCC Online SC 1761, 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, 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 the 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.”

6. Learned counsel for the petitioner has not been able to dispute the said proposition of law having been settled by the Hon’ble Supreme Court of India in ***Sukhvinder Singh’s case (supra)*** as well as ***Ram Avtar’s case (supra)***.

7. Hence, in the absence of any perversity being pointed out in the impugned order dated 01.10.2024 (Annexure P-4) 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 and the writ petition is accordingly dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

28-08-2025
Sapna Goyal

Whether speaking/reasoned : Yes
Whether reportable : No