



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

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**CWP-14273-2025
Date of Decision: 20.08.2025**

Union of India and others **....Petitioners**

Versus

Ex Ld Keshar Singh and another **....Respondents**

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

Present: Ms. Jyoti Choudhary, Senior Panel Counsel
for the petitioners.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned orders dated 13.02.2019 (Annexure P-1) and 29.05.2024 (Annexure P-2) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element from 30 % to 50 % for life on the ground that the same is perverse.
2. Learned counsel for the petitioners argues that respondent No.1 is not entitled to the benefit of rounding off the disability element of disability pension from 30% to 50% as respondent No.1 has approached the Tribunal after 16 years of discharge from service and keeping in view Section 22 of the



Armed Forces Tribunal Act, 2007, application can only be entertained by the Tribunal beyond 6 months deadline only if 'sufficient cause' for delay is explained hence, the grant of benefit of disability pension to respondent No.1 @ 50% by the Tribunal by placing reliance upon the judgment of the Hon'ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316*** and ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, is incorrect and the facts of the present case have not been appreciated in correct perspective by the Tribunal while passing the impugned orders dated 13.02.2019 (Annexure P-1) and 29.05.2024 (Annexure P-2).

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 respondent No.1 joined the Armed forces on 11.07.1983 in a fit medical condition. While in service, he suffered a disability of "Myopic Astigmatism with Amblyopia 379" which was assessed @ 30% for life and ultimately respondent No.1 was discharged from service on 30.11.2000 under Rule 13(3) (III) (i) of Army Rules, 1954. However, respondent No.1 was not granted the benefit of disability element of disability pension on the ground that the said disability is neither attributable to nor aggravated by the military service.

5. As per the principle settled by Hon'ble Supreme Court of India in ***Dharamvir Singh's*** case (supra), which has also been considered by the Tribunal in the impugned order dated 16.07.2021 (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



disease at that time on the basis of which, he/she has been discharged from service, such an employee is entitled for the benefit of presumption in his/her favour as per Rule 5 and 9 of 'Entitlement Rules for Causality Pensionary Awards, 1982' that the said disability has been suffered by the employee during his service career and is, thus, entitled for the benefit of disability pension. The relevant paragraphs of the said judgment 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 ”

31. XXXX XXXX XXXX XXXX

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."

6. As per the settled principle of law settled by Hon'ble Supreme Court of India in **Ram Avtar's case (supra)**, any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was found fit, subsequently upon suffering a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be that the disability suffered 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.”

7. Learned counsel for the petitioners has not been able to dispute the said proposition of law having been settled by the Hon’ble Supreme Court of India in **Ram Avtar’s case (supra)** to the effect that the disability is to be rounded off and in the present case, the disability of 30% is to be rounded off to 50%.

8. 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*) and **Ram Avtar's case** (*supra*) respondent No.1 has rightly been held to be entitled to disability pension by rounding off the disability element from 30% to 50%.

9. Further, with regard to the argument of the learned counsel for the petitioners that respondent No.1 has approached the Tribunal after a long delay, it may be noticed that as per the settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No.3086 of 2012 titled as **Balbir Singh vs. Union of India and others**, decided on 08.04.2016, the delay in filing the Original Application is liable to be condoned, since such claims are continuing and recurring in nature and merely that there was a delay it will not defeat the right of claimant nor restrict the arrears. The relevant paragraph of the judgment is as under:

“XXX...The Tribunal was therefore justified in restoring the service element of the pension in favour of the appellant. The question however is whether the arrears could have been restricted to three years only. The Tribunal in our view need not have done so. That is because the appellant had a right to receive service element of the pension in light of Regulation 186 (supra), which right was valuable and ought to have been protected. The fact that the appellant had approached the Tribunal for redress belatedly was in the peculiar circumstances of the case no reason for the Tribunal to reduce the payment of arrears to three years only.

We accordingly allow this appeal and modify the order passed by the Tribunal with the direction that the appellant shall be paid service element of the pension with effect from the date the said payment was stopped by the respondents. We however grant to the respondents three months time to calculate and release the arrears in favour of



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the appellant. In case the needful is not done within the time stipulated, the arrears payable to the appellant shall start earning interest at the rate of 9% from the date the period of three months expires till actual payment of the amount.”

10. Keeping in view the above, the ground taken by the petitioner to challenge the impugned orders dated 13.02.2019 (Annexure P-1) and 29.05.2024 (Annexure P-2) can not be accepted.

11. No other argument has been raised.

12. Hence, in the absence of any perversity being pointed out in the impugned orders dated 13.02.2019 (Annexure P-1) and 29.05.2024 (Annexure P-2) 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.

13. Accordingly, the writ petition is dismissed.

14. 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