



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

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CWP-14248-2025

Date of Decision: 20.08.2025

Union of India and others

....Petitioners

Versus

Sub Maj (Hony Cpy) Dayal 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 order dated 21.08.2024 (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 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 18 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 ***K.J.S. Buttar vs. Union of India, 2011 STPL (Web) 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 order dated 21.08.2024 (Annexure P-1).

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 05.02.1966 in a fit medical condition. While in service, he suffered a disability of "*Essential Hypertension (401)*" which was assessed @ 30% for life and ultimately respondent No.1 was discharged from service on 31.12.1997 under Rule 13(3) (III) (I) of Army Rules, 1954. Respondent No.1 was granted the benefit of disability element of disability pension @30% for life.

5. 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.”

6. 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)**.

7. Keeping in view the facts and circumstance of the present case



as well as the settled principle of law settled in **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%.

8. 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:

“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.”

9. Keeping in view the above, the ground taken by the petitioner to challenge the impugned order dated 21.08.2024 can not be accepted.

10. No other argument has been raised.

11. Hence, in the absence of any perversity being pointed out in the impugned order dated 21.08.2024 (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.

12. Accordingly, the writ petition is dismissed.

13. 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