



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

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CWP-13750-2025

Date of Decision: 21.08.2025

Union of India and others**....Petitioners****Versus****IC54262K Lt. Col. Vanit Passi****....Respondent**

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

Present: Ms. Gehna Vaishnavi, Senior Panel Counsel
for the petitioners.

Mr. Navdeep Singh, Advocate and
Ms. Roopan Atwal, Advocate for the respondent.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 18.11.2022 (Annexure P-1) passed by Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal'), by which, the respondent has been held to be entitled to disability element of disability pension by rounding off disability of 30% to 50%.

2. Learned counsel for the petitioners places reliance upon the report of medical examination of the respondent to contend that though the disability of "*Primary Hypertension*" assessed @ 30% for life has been found in respondent, but the same has been held to be 'neither attributable to Military Service nor aggravated by the Military service' and hence, the grant of benefit of disability pension to respondent by placing reliance upon the judgment in *Dharamvir Singh versus Union of India and others*, (2013) 7



SCC 316 for the purpose of vitiating the assessment made in medical report that disability is neither attributable to nor aggravated by the military service and in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761*** for the purpose of granting benefit of rounding off of disability from 30% to 50%, is incorrect.

3. Learned counsel for the petitioners has also placed reliance upon the judgment passed by Hon'ble Supreme Court of India in ***Narsingh Yadav vs. Union of India and others, (2019) 9 SCC 667***, to contend that any disorder not detected at the time of enrollment, cannot be mechanically attributed to military service. He further contends that, as per the said judgment, the presumption that a personnel who was found to be fit at the time of enrollment and was further detected with a disability, such a disability cannot be mechanically presumed to be attributed to and aggravated by military service.

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

5. It is conceded fact that at the time when respondent got discharge from service i.e. on 06.02.2020, due to the disability, he had rendered almost 05 years of service with the petitioner-Union of India. Further, it is also a conceded fact that at the time when respondent joined the armed forces i.e. on 27.02.2015 and was medically examined, and he was not found suffering from any disease on the basis of which, respondent No. 1 has been granted the benefit of disability pension.

6. 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."

7. Further, with regard to the grievance of the petitioners qua the rounding off disability pension, the 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 with the Military, who had undergone the medical examination at the time of enrollment and was found fit, is subsequently found to be suffering with a disability is entitled to the benefit of disability pension as the presumption would be in favour of such an employee that the disability suffered during the service is attributable to the Military service by rounding off the said percentage of disability. The relevant paragraph of the said judgment is 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 petitioners has also argued that as the respondent official was working in a peaceful station, the benefit of disability pension that the *Hypertension* or the other disability being suffered by him, should not have been treated attributable to the military service or being aggravated by the military service, especially when, the Medical Board has



considered all the same and even the appeal against the same had already been dismissed by the authorities concerned holding that the disability is being suffered by the respondent are not attributable to the military service or aggravated by the military service.

9. Qua the said argument, it may be noticed that the stress is the reason with regard to the disability of *hypertension* being suffered by respondent No.1. The stress remains while performing the duties of mature of military or force. Further, whether, posting of personnel concruell at a peaceful station can be taken as a ground to deny the benefit to an officer that the disease from which he has suffered is attributable to the military service or aggravated by the military service, the Regulation 423(a) of regulations of the Medical Services in the Armed Forces, 2010, is to be taken into account, which is as under:

“423(a). For the purpose of determining whether the cause of a disability or death resulting from disease is or 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 Area/Active Service area or under normal peace conditions. It is however, essential to establish whether the disability or death bore a causal connection with the service conditions.

All evidences both direct and circumstantial will be taken into account and benefit of reasonable doubt, if any, will be given to the individual. The evidence to be accepted as reasonable doubt for the purpose of these instructions should be of a degree of cogency, which though not reaching certainty, nevertheless carries a high degree of probability. In this connection, it will be remembered that proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. If the evidence is so strong



against an individual as to leave only a remote possibility in his/her favor, which can be dismissed with the sentence "of course it is possible but not in the least probable" the case is proved beyond reasonable doubt. If on the other hand, the evidence be so evenly balanced as to render impracticable a determinate conclusion one way or the other, then the case would be one in which the benefit of the doubt could be given more liberally to the individual, in case occurring in Field Service/Active Service areas."

10. A bare perusal of the above would show that the serving at a normal peace condition or active area or a field area has no co-relation while adjudicating upon the issue whether, the disease is being suffered was attributable to the military service or not. Learned counsel for the petitioners has not been able to dispute the same.

11. With regard to the reliance being placed by the learned counsel for the petitioner on the judgment in **Narsingh Yadav's case (supra)** to contend that in case a person is found to be fit at time and is at later stage in service found to be suffering from a disability, the presumption that such a disability is attributed to military service cannot be applied mechanically, qua the said aspect, it shall be noted that to rebut such a presumption, which is in favour of a disabled employee, sufficient material has to be brought on record to show that neither the service conditions nor the duties assigned to the employee concerned were of such a nature which could establish that disability is not attributable to the military service, such onus has not been discharged by the employer in the present case to show that the respondent No.1-employee's case is covered by **Narsingh Yadav's case (supra)**.

12. Further, the similar petitions on the same grounds one being CWP-20287-2025 has already been dismissed by the Coordinate Bench of this



Court on 28.07.2025, which fact has also not been rebutted.

13. 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)***.

14. Keeping in view the facts and circumstances of the present case as well as the settled principle of law in ***Dharamvir Singh's case (supra)*** and ***Ram Avtar's case (supra)*** once, at the time of selection, respondent was medically examined and was found fit in all aspects and it was only during the continuation of service that respondent was found suffering from *Primary Hypertension*. That being so, the said disease has to be attributed to the military service and the report of medical board cannot take away the right of respondent to claim the benefit of disability pension @50% by rounding it off.

15. No other argument has been raised.

16. Hence, in the absence of any perversity being pointed out in the impugned order dated 18.11.2022 (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.

17. Accordingly, the writ petition is dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURJ)
JUDGE

August 21, 2025
Varinder

Whether speaking/reasoned : Yes

Whether reportable : No

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