



CWP No. 13894 of 2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109)

CWP No. 13894 of 2025

Date of Decision : 19.08.2025

Union of India and others

...Petitioners

Versus

Col. Arvind Singh (Retd.) and another

...Respondents

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

Present: Mr. Dharm Chand Mittal, Senior Panel Counsel
for the petitioners.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 17.10.2023 (Annexure P-7) passed by respondent No. 2-Armed Forces Tribunal, Chandigarh Bench, wherein, by rounding off the disability from 20% to 50%, the benefit of disability pension has been allowed on the ground that the same is perverse.

2. Learned counsel for the petitioners argues that the respondent No. 1 was relieved from service on 31.12.2014 after rendering 32 years of service but, he was not examined by the medical board at the relevant time though, the respondent No. 1 was directed to appear before the post discharge released medical board and keeping in view the recommendations of the post discharge release medical board, the respondent No. 1 was suffering from “(i) *Primary Hypertension* (ii) *Dyslipidaemia* and (iii) *Sensorineural Hearing Loss (B/E)*” and out of which only the Sensorineural Hearing Loss (B/E) was treated to be aggravated by the military service and the disability was assessed for the same at 20% though, the composite



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disability was assessed at 40% for life. Learned counsel submits that once, at the time of the relief also, respondent No. 1 was not suffering from the disease, the grant of disability pension by the Tribunal vide order dated 17.10.2023 (Annexure P-7) is incorrect.

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

4. A bare perusal of the averments made in the petition would show that the respondent No. 1 had worked for a period of 32 years with the petitioners. Though, when he was relieved from service on 31.12.2014, he was not examined by the Medical Board but keeping in view the disability suffered by him, he was directed to appear before the post discharge medical board which medical board assessed the respondent No. 1 and found that he is suffering from (i) *Primary Hypertension* (ii) *Dslipidaemia* and (iii) *Sensorineural Hearing Loss (B/E)*.

5. It may be noticed that as per Medical Board, the disability of *Sensorineural Hearing Loss (B/E)* was found attributable to the military service and the said disability was 20% for life. Even if the said disability alone is to be taken into consideration which according to the medical board was attributable to the military service, respondent No. 1 become entitled for the grant of disability pension by rounding off the disability of 20% to 50%.

6. Even otherwise, the other ailments suffered, cannot be treated not aggravated or attributed to the military service as nothing evident has come on record that the respondent No. 1 was suffering from the same at the time when he entered the job in the year 1982.



7. The claim of respondent No.1 is covered in his favour for the grant of disability pension as per the judgment of Hon'ble Supreme of India in ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316***. The relevant para Nos. 30, 32 and 33 of the judgment in ***Dharamvir Singh's*** case (supra) 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 Disability is not related to mil service”

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.

"Classification of diseases" have been prescribed at Chapter IV of Annexure I; under paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a casual connection with the service conditions."

8. Therefore, all the ailments being suffered by respondent No. 1 have to be treated as attributable to the military service and the combined



disability assessed as 40% is to be treated as attributable to the military service.

9. Further, as per the settled principle of law settled by Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar*, 2014 SCC Online SC 1761**, 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



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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.”

10. 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 percentage of disability to be rounded off and when applied in the present case.

10. The combined disability of 40% has rightly been rounded off to 50%.

11. Learned counsel for the petitioners has not been able to point out the perversity in the order dated 17.10.2023 (Annexure P-7) passed by the Tribunal while granting the relief keeping in view the facts and circumstances of the present case noticed here-in-before.

12. No other argument is raised.

13. Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 19, 2025

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Whether speaking/reasoned : Yes
Whether reportable : No