

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-15211-2024 (O&M)
Date of Decision :11.11.2025

Union of India and others

... Petitioners

Versus

Arjan Singh and another

... Respondents

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

Present: Mr. Surender Singh Pannu, Senior Panel Counsel
for the petitioners-UOI.

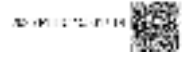
Mr. Parveen, Advocate for respondent No.1.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 15.11.2022 (Annexure P-2) passed by respondent No.2-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 that too by rounding off of the disability element of disability pension @ 50%, which was initially assessed at less than 20% (15-19%) for life.

2. Learned counsel for the petitioners submits that the respondent No.1 joined the service on 04.02.1963 and was discharged from service on 28.02.1978 in low medical category BEE (permanent) due to the disease 'Viral Hepatitis and the said disability was assessed less than 20% (15-19%) by the Medical Board in the eyar 1978 and the same was assessed as

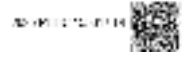


attributable to military service and therefore, as the disability was not assessed upto 20%, which is a condition precedent for the grant of disability pension, the Tribunal exceeded its jurisdiction while granting the said relief to respondent No.1.

3. Learned counsel appearing on behalf of respondent No.1 submits that it is a conceded fact that the disability of 'Viral Hepatitis', which was suffered by respondent No.1 while being in service, has already been held to be attributable to the military service by the Medical Board in the year 1978. Learned counsel for respondent No.1 further submits that as per the settled principle of law settled in **Civil Appeal No.5605 of 2010 decided on 25.06.2014 titled Sukhvinder Singh vs. Union of India and others**, the disability suffered by any army personnel even if the same is assessed at less than 20% but the same leads to such circumstances where personnel concerned cannot discharge the duties assigned to him/her and has to be relieved from duty, such a disability is to be treated minimum of 20% so as to grant the benefit of disability pension to such a personnel concerned and said disability of 20% has rightly been rounded off to 50% keeping in view the judgment of the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar*, 2014 SCC Online SC 1761.**

4. We have heard learned counsel for the parties and have gone through the record with their able assistance.

5. For better adjudication of matter in hand, certain facts need to be taken into consideration that 1st the Medical Board assessed the disability suffered by respondent No.1 @ 15%-19% and as attributable to military service, but the claim of respondent No.1 was rejected on the ground that same is below the minimum threshold of 20% after which, another Medical

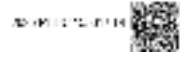


Board was constituted and same assessed the disability suffered by respondent No.1 @ 15%-19% after which another claim raised by respondent No.1 for grant of disability pension got rejected on same ground.

6. On being asked whether, with the disability from which respondent No.1 suffered and on the basis of which he got discharged from service, the personnel concerned could have continued in service performing the duties without any hindrance, learned counsel for the petitioners has not been able to rebut the said aspect that while suffering with the said disability, the officer could not have continued in service. Once, the officer concerned could not continue in service due to the aforementioned disability, the only option available was that either he should be invalidated out of service or the officer should get relieved from service. Once, the reason for being relieved from service is the disability incurred during the service period which disability has been assessed as attributable to military service, the claim of the petitioner that the benefit of disability pension could not be granted to respondent No.1, cannot be accepted. The said injury has been made basis of being relieved from service, which injury is concededly attributable to the military service.

7. It should be noted that the present issue has already been dealt with by the Hon'ble Supreme Court of India in ***Sukhvinder Singh's case (supra)*** and as per the judgment in ***Sukhvinder Singh's case (supra)***, any injury, which led to being invalidated from service of an army personnel is assessed at less than 20%, for the purpose of the grant of disability pension, the same has to be treated as a minimum of 20%. The relevant paragraph of the judgment is as under:

9. *We are of the persuasion, therefore, that firstly, any*

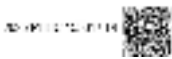


disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount 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 appears to be no provisions authorising the discharge or invaliding out of service where the disability is below twenty per cent and seems to us to be logically so. Fourthly, wherever 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 twenty per cent. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty per cent disability pension.”

8. Further, as per the settled principle of law settled by the Hon’ble Supreme Court of India in **Ram Avtar’s case (supra)**, disability element of disability pension is assessed @ 20%, the same is to be rounded off to 50%, which is a settled principle of law, which has not been rebutted by the learned counsel for the petitioners.

8. It may be noticed that the impugned order passed by the Tribunal in the year 2022 has been challenged by the petitioners in the year 2024, i.e. after a period of 02 years. The petitioners have not implemented the impugned order in favour of the respondent No.1 for sufficiently long time hence, the petitioners are directed to implement the said order within a period of four weeks from the date of the receipt of copy of this order.

9. Keeping in view the totality of the circumstances, the impugned order dated 15.11.2022 (Annexure P-2) passed by the Tribunal, keeping in view the facts and circumstances of the present case coupled with the settled



principle of law, has not been shown to be perverse in any manner. Hence, no ground is made out for any interference by this Court in the facts and circumstances of the present case and the present petition is accordingly dismissed.

10. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

November 11, 2025	(VIKAS SURI)
aarti	JUDGE
Whether speaking/reasoned :	Yes
Whether reportable :	No