



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

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CWP-15537-2024

Date of Decision: 12.11.2025

Union of India and others

....Petitioners

Versus

Viswambharan NK 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.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 06.03.2023 (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 by rounding off the disability element which was assessed @10%, and was treated as 20% further to be rounded off to 50% for life.

2. Learned counsel for the petitioners submits that respondent No.1 had himself requested for relieving him from the service hence, the benefit of disability pension cannot be allowed in his favour and further that the disability of “Gouty Arthritis (10% for life)” was assessed at less than 20% hence, as the disability was assessed as less than 20% which percentage is a condition precedent for the grant of benefit of disability pension, the Tribunal



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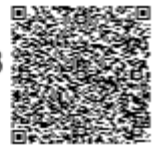
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exceeded its jurisdiction while granting the relief of disability pension rounding off @ 50% as against 20% from 10%.

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

4. It is a conceded case that the disability of “*Gouty Arthritis (10% for life)*” which was suffered by respondent No.1 while being in service has already been held to be aggravated by the military service by the Medical Board. As per the settled principle of law settled in ***Civil Appeal No.5605 of 2010*** titled ***Sukhvinder Singh vs. Union of India and others***, decided on 25.06.2014 even if the disability is assessed at less than 20%, but the officer cannot discharge the duties due to said disability, such an officer has to be relieved from service and for fulfilment of said purpose, disability is to be treated minimum of 20% so as to grant the benefit of disability pension and said disability of 20% has rightly been rounded off by the Tribunal 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***.

5. On being asked as to whether, with the disability suffered, respondent No.1 could have continued in service and performed the duties without any hindrance, learned counsel for the petitioners has not been able to rebut that with the said disability, respondent No.1 could not have continued in service. Once, the officer concerned could not have continued in service, the only option available was either he should be invalidated out or respondent No.1 should get relieved from service. Once, the reason for being relieved from service is the injury, which respondent No.1 suffered claiming active service the claim of the petitioner that the contention of the petitioners that



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disability pension could not be granted to respondent cannot be accepted especially when the disability is aggravated by the military service.

6. As per the judgment in ***Sukhvinder Singh's case (supra)***, the injury even if the same is less than 20%, but for the purpose of the grant of pension, the same has to be treated as minimum of 20%. The relevant paragraph of the judgment is as under:

“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 appear to be no provisions authorising the discharge of invaliding out of service where the disability is below 20 percent and seems to us to be logically so. Fourthly, whenever 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 20%. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty percent disability pension.”

7. Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Ram Avtar's case (supra)***, any disability of 20%, is to be rounded off to 50%, which settled principle of law has not been rebutted by the learned counsel for the petitioners.



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8. Keeping in view the totality of the circumstances, the order dated 06.03.2023 (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.
9. No ground is made out for any interference by this Court in the facts and circumstances of the present case.
10. Accordingly, the writ petition is dismissed.
11. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

November 12, 2025
Varinder

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No