



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

257/2

**CWP-15913-2024
Date of Decision: 12.11.2025**

Union of India and others

....Petitioners

Versus

Ex. Sep Bal Krishan and another

....Respondents

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

Present: Ms. Neha Jain, Senior Panel Counsel
for the petitioners.

Mr. Harmeet Singh, Advocate for
Mr. Arshit Goel, Advocate
for respondent No.1.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 09.02.2022 (Annexure P-5) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal), by which, respondent No.1 has been held to be entitled to benefit of 'service element' of disability pension and benefit of rounding off the same from 70% to 75% w.e.f. 01.10.2017 for life on the ground that the same is perverse.

2. The learned counsel for the petitioners submits that in the



-: 2 :-

Defence Security Corps (DSC) service, a minimum service of 15 years was required rather to earn service pension, whereas, respondent No.1 had rendered only 10 years and 214 days of service with the DSC whereafter, he was not granted further extension of service due to disability which was attributed by the military service.

3. Few facts need to be ascertained for better adjudication of matter at hand.

4. It is conceded fact that at the time when respondent No.1 was discharged from service i.e. on 30.09.2017, he had rendered 10 years and 214 days of service with the DSC, petitioner-Union of India. He was found suffering from “*Primary Hypertension as 30% for life; Ty-II Diabetes Mellitus as 20% for life and Lat Medullary Syndrome as 50% for life*” and disability was compositely assessed @70% which was held to be attributable to military service and disability pension was granted.

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

6. The grievance of the petitioner which surfaces from perusal of the paperbook and the argument raised is for the purpose of grant of pensionary benefits; firstly that since the qualifying service period is considered as 15 years in DSC, the respondent cannot be held entitled for benefit of service element of disability pension as he has only more than 10 years of service in his credit, which is less than 15 years and second is qua the benefit of rounding off of disability pension that has been granted to respondent No.1, thirdly, that since respondent No.1 is in receipt of



-: 3 :-

pensionary benefits from first service, he will not be entitled for the benefits accruing from his second service.

7. As per regulation 179 of pension regulation, if a person while being discharged from service is found to be suffering from any disease, which is attributable or aggravated by the military service, such a personnel is to be deemed to have been invalidated out of service and is to be granted the benefit of both service and disability element of disability pension of which latter is granted only when disability is more than 20%, and as per regulation 266, for purpose of grant of pensionary award to personnel of DSC, same shall be governed by provision applicable to commandants of army.

8. Hence, once as per rules governing the service, after being invalidated from service on basis of a disease which is attributable or aggravated by military service, a personnel is to be granted benefit of service element of pension, there seems no perversity in the impugned order.

9. Further, as per order dated 09.02.2022 (Annexure P-5) passed by the Tribunal, respondent No.1 once entitled for disability pension at the time of discharge in 2017, he is entitled to benefit of rounding off as per the policy of Government of India and law 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



-: 4 :-

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.”

10. Further, in a recent judgment in **Civil Appeal No.11311 of 2025**



-: 5 :-

titled as ***Union of India and others vs. Reet MP Singh and another***, decided on 01.09.2025, the Hon'ble Supreme Court of India by placing reliance upon ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, has again reiterated that the benefit of rounding off the disability element cannot be denied.

11. 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 is to be rounded off and when applied in the present case, disability of 70% is to be rounded off to 75%.

12. Further, with regards to the grievance raised that respondent No.1 had served in the DSC for 10 years and 214 days and is not entitled for the disability pension, it is relevant to refer to a verdict rendered by the learned Tribunal concerned in case **Original Application No.324 of 2016** titled as ***Om Parkash Guleria Vs. Union of India and others***, decided on 10.08.2018, wherein a similar question was put forth before the Tribunal concerned, that ***'whether the applicant who was in receipt of army pension at the time of his re-enrollment in the DSC, is entitled to the disability pension in the DSC service also***, the learned Tribunal concerned after considering the relevant regulations observed that in terms of Regulation 179 of the Pension Regulations for the Army, 1961, the applicant was entitled to disability pension consisting of service element as well as disability element. Further, the Tribunal also observed that the mere fact that the applicant was in receipt of pension of his first spell of Army service does not disentitle him to become



-: 6 :-

an able recipient of the component of disability pension thus for the second spell of service in the DSC. The said verdict was challenged by the Union of India before the Hon'ble Supreme Court and the same was upheld by the Apex Court in its verdict rendered in case titled as **Union Of India & Ors. Vs. Om Prakash Guleria**, decided on 27.08.2021, to which Civil Appeal No. (Diary No. 9346 of 2021) became assigned. The relevant paragraphs, as occur in the said verdict are extracted hereinafter.

*“2. Besides the delay of 515 days in filing the appeal, which has not been satisfactorily explained, even on merits, we find no error in the judgment dated 10 August 2021 of the Armed Forces Tribunal. **The Tribunal has correctly construed the provisions of the pension regulations and the ultimate conclusion, entitling the respondent to the service element of the disability pension and the benefit of rounding off, does not suffer from any error.***

3. The Civil Appeal is, therefore, dismissed on the ground of delay as well as on merits.”

13. Keeping in view the facts and circumstances of the present case as well as the settled principle of law in **Ram Avtar's case (supra)**; **Reet MP Singh's case (supra)** as well as **Om Prakash Guleria's case (supra)** once, at the time of selection, respondent No.1 was medically examined and was found fit in all aspects and it was only during the continuation of service for a period of 10 years and 214 days that the respondent was found suffering from *“Primary Hypertension as 30% for life; Ty-II Diabetes Mellitus as 20% for life and Lat Medullary Syndrome as 50% for life”* as attributed to the military service as held by the medical board. That being so, the said disease has to be



-: 7 :-

attributed and aggravated by the military service, the benefit of disability pension at 75% as against 70% by rounding it off, was rightly extended.

14. Hence, in the absence of any perversity being pointed out in the impugned order dated 09.02.2022 (Annexure P-5) either on the basis of the facts on record 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.

15. No other argument has been raised.

16. Accordingly, the writ petition is dismissed.

17. 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