



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

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CWP-15911-2024**Date of Decision: 12.11.2025****Union of India and others****....Petitioners****Versus****Smt. Sushma Devi 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 05.04.2022 (Annexure P-3) 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 grant of Special Family Pension instead of Ordinary Family Pension from the day next to the date of death of her husband late Naik Gopal i.e. 25.11.2018.

2. Learned counsel for the petitioners contends that though the disability of "*Right Intraventricular Meningioma (OPTD) & Septicaemia*" was diagnosed and found to be existing in the husband of the respondent No.1, which disability was opined by Medical Board as cause of death, but the same has been opined by Medical Board as having no casual connection to military service and the opinion of Medical Board declaring the death of husband of respondent No.1 due to said disability has no casual connection with military service has to be given due weightage hence, the grant of benefit of special family pension to respondent No.1 by the Tribunal has been wrongly allowed. Hence, the order



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dated 05.04.2022 (Annexure P-3) passed by the Tribunal is incorrect.

3. The learned counsel for the petitioner has placed reliance on 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 due weightage has to be given to opinion of Medical Board and that the same cannot be ignored while adjudicating claim of respondent No.1.

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

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

6. It is conceded fact that while serving with 21 Grenadiers, husband of respondent No.1 suffered from intermitted headache and admitted to 308 Field Hospital on 20.09.2018 where he was found as a case of "Obesity" and further transferred to Military Hospital, Kargil on 22.09.2018 for opinion of Medical Specialist. Incidentally, he was found to have "Dyslipidaemia" also and placed in low medical category w.e.f. 08.10.2018 and thereafter, he was again admitted in 308 Field Hospital on 12.10.2018 as a case of "Other Headache Syndromes" and further transferred to Military Hospital, Kargil on 13.10.2018 where he was detected as a case of "Central Neurocytoma with Obstructive Hydrocephalous", from where he was transferred to Command Hospital (Western Command), Chandimandir and underwent "(RT) Frontal Craniotomy + GTE" surgery, and thereafter, on 28.10.2018, the husband of respondent No.1 underwent (RT) Frontal Craniotomy + GTE Surgery and died on 24.11.2018.

7. It is pertinent to note here that Regulation 213 of Pension



Regulations for the army stipulates the conditions in which benefit of special family pension can be granted to family members of deceased army personnel after his death. A bare perusal of said regulation would show that said benefit can be granted in case the death suffered by army personnel was due to on hastened by any injury or wound, which is attributable to military service. This is the first scenario where said benefit can be granted. Being a beneficial legislation, as per Regulation 213 family of a deceased army personnel is entitled to said benefit even if there existed some injury in such army personnel before he/she joined the service, which injury after being aggravated by military service has led to death of such army personnel.

8. A bare perusal of medical record will show that disability of “*Dyslipidaemia and obesity*” has been assessed as neither attributed nor aggravated by the military service. The said finding of Medical Board is to be taken into consideration by taking into note the principle of law enunciated in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316***, and the same needs to be made applicable. 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 "Genrealised 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.”

9. Once, the diseases which led to ultimate death of husband of



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respondent No.1 are to considered as attributable to and aggravated by the military service, the death of husband of respondent No.1 is to be attributed to military service as per settled principle of law, which is to be made the basis for grant of special family pension to respondent No.1 especially when under Regulation 213, the benefit of special family pension is to be granted even in a condition where the disease existed before joining service.

10. As for the reliance placed on *Narsingh Yadav's case (supra)*, by the learned counsel for the petitioners, it shall be noted that the same is not applicable in case where the medical report is unreasoned, which concededly the scenario in the present case, when keeping in view the posting of the Soldier in extreme conditions in Kargil, he suffered the illness, which ultimately resulted his death while in service.

11. Hence, in the absence of any perversity being pointed out in the impugned order dated 05.04.2022 (Annexure P-3) 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.

12. Accordingly, the writ petition is dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

November 12, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No