



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

140**CWP-16116-2025****Date of Decision: 20.08.2025****Union of India and others****....Petitioners****Versus****No.2670368 Ex. Rect. Rohtas and another****....Respondents**

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

Present: Ms. Promila Nain, Senior Panel Counsel for the petitioners.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 08.10.2024 (Annexure P-1) passed by the Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal'), by which, the benefit of disability pension has been granted in favour of respondent No.1 along with the benefit of rounding off the said disability from 11% - 14% to 50%.

2. Learned counsel for the petitioners argues that once the disability of respondent No.1 was assessed at less than 20%, through attributable to military service the benefit of disability pension was rightly denied to be given to respondent No.1 and no interference of the Tribunal was called for to intervene in the said act of claiming the benefit but, the benefit of disability pension for life has been granted and that too by rounding off the disability from 20% to that of 50%, which is incorrect.

3. We have heard the learned counsel for the petitioners and have



gone through the record with her able assistance.

4. It is a conceded position that even as per Medical Board disability suffered by respondent No.1 is attributable to the military service and only issue is that the said disability was assessed at less than 20% and due to the said disability respondent No.1 has been invalidated out.

5. As per the settled principle of law by the Hon'ble Supreme Court of India in Civil Appeal No.5605 of 2010 decided on 25.06.2014 titled ***Sukhvinder Singh vs. Union of India and others***, the disability has to be treated at minimum of 20% in case a person is invalidated out of service on the ground of disability. 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.”



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6. Learned counsel for the petitioners has not been able to rebut the said settled principle of law according to which, the Tribunal found the respondent No.1 entitled for the benefit of disability pension @ 20% to be further rounded off to 50% for life.

7. Further, with regard to the grievance of the petitioners qua the rounding off disability pension, the issue has been settled by the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, 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 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.



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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.”

8. Keeping in view the fact that the order passed by the Tribunal is in accordance with the facts of the present case as well as the settled principle of law and the impugned order has not been proved to be perverted either on facts on record or on the principle of law.

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

(VIKAS SURI)
JUDGE

August 20, 2025
Varinder

Whether speaking/reasoned : Yes

Whether reportable : No