



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.17410 of 2025
Date of Decision: 02.07.2025

Union of India and others

...Petitioners

Versus

No.3197711Y Ex. Naik Surender Kumar and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Ms. Promila Nain, Advocate, Senior Panel counsel
for the petitioners.

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SANJEEV PRAKASH SHARMA J.(Oral)

The challenge in this writ-petition is to the order dated 07.03.2024 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal (for short 'the AFT') in *O.A. No.3063 of 2019* titled as "***Surender Kumar vs. Union of India and others***" whereby the applicant (respondent No.1 herein) is held entitled to disability pension to the extent of 30% rounding off to 50% in terms of the judgment passed by the Hon'ble Supreme Court in *Union of India and others vs. Ram Avtar 2014 SCC Online SC 1761*.

2. Learned counsel for the petitioners-UOI has vehemently argued that the case of the applicant (respondent No.1) does not fall within the Clause (f), below Note 2 to Rule 12 of the Entitlement Rules for Casualty Pensionary Awards 1982 (for short 'the Rules'), as the accident cannot be said to come within the four-corners of employment.



3. We have considered the submissions.

4. Brief facts which are to be noticed are that the applicant had joined the Armed Forces on 28.01.2002 and was discharged from service on medical ground on 31.08.2017 after completion of 15 years, 07 months and 04 days service. During the leave period, the applicant met with an accident when he was going back to his home town after getting the railway reservation done at Kurukshetra, Railway Station for travelling back to his place of posting, i.e Jammu & Kashmir and had sustained an injury of 'Fracture Shaft of Femur (RT) Operated ICI) No.S 72.9' disability of which was assessed @ 30%. The Court of Inquiry was held on 31.10.2011 and as per its opinion, the applicant was not at fault for this accident.

5. It would be apposite to quote Clause (f), below Note 2 to Rule 12 of the Rules, which reads as under:-

“An accident which occurs when a man not strictly ‘on duty’ as defined may also be attributable to service, provided that if involved risk which was definitely enhanced in kind or degree by the nature, conditions, obligations or incidents of his service and that the same was not a risk Common to human existence in modern conditions in India. Thus, for instance, where a person is killed or injured by another party by reason of belonging in the Armed Forces, he shall be deemed ‘on duty’ at the relevant time. This benefit will be given more liberally to the applicant in cases occurring on active service as defined in the Army/Navy/Air Force Act.”

6. Keeping in view the above provision, we find that where an accident had occurred resulting in death or injury to an Army personnel, he



shall be deemed to be on duty and the benefit would be given more liberally, provided such death or injury was caused without his personal involvement in any manner in aggravating such an accident. The judgment passed by the Hon'ble Supreme Court in ***Pension Sanctioning Authority, PCDA (P) Allahabad and others vs. M.L. George Ex. SGT, (2015) 15 SCC 399*** is applicable to the facts of the case, wherein the following observations were made:-

“6. The decision in Madan Singh Shekhawat case is, in our opinion, a complete answer to the case at hand. The respondent in the present case also was returning to his place of duty after availing casual leave when he met with an accident. It is not the case of the respondent that he had left the place of his duty unauthorisedly. It cannot, therefore, be said that he was not on duty in terms of the provision of Regulations 10 and 48 referred to in Madan Singh Shekhawat case.”

7. In view of the above, we dismiss this writ-petition and uphold the order dated 07.03.2024 passed by the AFT.

(SANJEEV PRAKASH SHARMA)
JUDGE

02.07.2025
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No