



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

258

CWP-16180-2024

Date of Decision: 12.11.2025

Union of India and others**....Petitioners****Versus****Ex. Sep Nahar Singh (since deceased) through Smt. Birmati Devi and another****....Respondents**

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

Present: Mr. Parvesh Kumar Saini, Senior Panel Counsel
for the petitioners (through V.C).

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 30.03.2023 (Annexure P-1) 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 disability element of disability pension by rounding off the same from 30% to 50% w.e.f. 01.08.2007 on the ground that the disability has been assessed as neither attributed to nor aggravated by the military service.

2. Learned counsel for the petitioners places reliance upon the report of medical examination of respondent No.1 to contend that though the disability of "*Essential Hypertension*" has been found to be existing in respondent No.1, but the same has been neither attributed to nor aggravated by



-: 2 :-

the military service hence, the grant of benefit of disability pension by considering the fact that he was re-enrolled in Defence Security Corps (DSC) service and had only rendered 10 years and 17 days of service and further by rounding of the same @ 50% to the respondent w.e.f. 01.08.2007 by the Tribunal by placing reliance upon the judgment of the Tribunal in Original Application No.146 of 2010 titled as ***Prabhu Ram vs. Union of India and others***, and the judgment of the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, is incorrect.

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

4. It is conceded fact that at the time when respondent No.1 was discharged from service i.e. on 31.07.2007, he had rendered 10 years and 17 days of service with the DSC, petitioner-Union of India. He was found suffering from "*Essential Hypertension*" and disability was 30% for life which was held to be neither attributed to nor aggravated by the military service and disability pension was granted.

5. As per the principle settled by Hon'ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316***, which has also been considered by the Tribunal in the impugned order dated 30.03.2023 (Annexure P-1), any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was not found suffering from any such disease at that time on the basis of which, he/she has been discharged from service, such an employee is entitled for the benefit of presumption in his/her favour as per Rule 5 and 9 of 'Entitlement Rules for Causality Pensionary Awards, 1982' that the said disability has been



-: 3 :-

suffered by the employee during his service career and is, thus, entitled for the benefit of disability pension. 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



-: 4 :-

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."

6. Further, as per order dated 30.03.2023 (Annexure P-1) passed by the Tribunal, respondent No.1 once entitled for disability pension at the time of discharge in 2007, 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 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



-: 5 :-

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.”

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



-: 6 :-

8. 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 30% is to be rounded off to 50%.

9. Further, with regards to the grievance raised that respondent No.1 had served in the DSC for 10 years and 17 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 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



-: 7 :-

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.”

10. Keeping in view the facts and circumstances of the present case as well as the settled principle of law in **Dharamvir Singh’s case (supra)**; **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 17 days that the respondent was found suffering from “*Essential Hypertension*” as attributed to the military service as held by the medical board. That being so, the said disease has to be attributed and aggravated by the military service, the benefit of disability pension at 50% as against 30% by rounding it off, was rightly extended.

11. Hence, in the absence of any perversity being pointed out in the impugned order dated 30.03.2023 (Annexure P-1) 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. No other argument has been raised.



CWP-16180-2024

-: 8 :-

- 13. Accordingly, the writ petition is dismissed.
- 14. 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