



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

121

CWP-19571-2025

Date of Decision: 02.09.2025

UNION OF INDIA AND ORS

...Petitioners

Versus

Sukhvinder SINGH AND ANR

...Respondents

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

Present:- Ms. Jyoti Choudhary, Senior Panel Counsel,
for the petitioners.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the challenge is to the impugned order dated 11.07.2024 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element from 20 % to 50 % from the date of discharge i.e. 01.02.2021, on the ground that the same is perverse.

2. Learned counsel for the petitioners places reliance upon the report of Release Medical Board of respondent No. 1 to hold that though the disability of "CNS (INV) Paraparesis and B12 Deficiency" assessed @ 10% for life has been found in respondent No.1, but the same has been held by the Release Medical Board to be 'neither attributable to Military Service nor



aggravated by the Military service'. Hence, the grant of benefit of disability pension to respondent No.1 by the tribunal vide order dated 11.07.2024 (Annexure P-1) by placing reliance upon the judgment of Hon'ble Supreme Court of India in *Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316* and *Sukhvinder Singh vs. Union of India and others, (2014) 14 SCC 364*, is incorrect.

3. Further, learned counsel for the petitioners argues that even if it is assumed that the disability, i.e. "CNS (INV) Paraparesis and B12 Deficiency" suffered is attributable to military service, yet the same was assessed as 5% each even composite, i.e. 10% less than 20%, which is minimum required for the grant of disability pension. Learned counsel further argues that by treating the said disability @ 20%, the same has been further rounded off to 50%, which is incorrect. Hence, the grant of benefit of disability pension to respondent No.1 by the Tribunal vide order dated 11.07.2024 (Annexure P-1) may kindly be set aside.

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

5. As per the principle settled by Hon'ble Supreme Court of India in *Dharamvir Singh's* case (supra), which has also been considered by the Tribunal in the impugned order dated 11.07.2024 (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



Casualty Pensionary Awards, 1982' that the said disability has been contracted by the employee during his service career and is, thus, entitled for the benefit of disability pension. The relevant para Nos. 30 and 32 of the judgment in ***Dharamvir Singh's*** case (supra) 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 Disability is not related to mil service”

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 "Generalised 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."

6. As per the judgement of the Hon'ble Supreme Court of India in ***Sukhvinder Singh vs. Union of India and others*, (2014) 14 SCC 364**, it has been held that in case an officer is being invalidated out on the basis of the disability, the same has to be presumed at minimum disability of 20%. The relevant para of the said judgment is as under:-

"11. 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 appears to be no provisions authorising the discharge or invaliding out of service where the disability is below twenty per cent and seems to us to be logically so. Fourthly, wherever 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 twenty per cent. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty per cent disability pension.”

7. 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 ***Sukhvinder Singh’s*** case (supra). Therefore, even if the Medical Board has assessed the composite disability at 10%, the same has to be treated as 20% by deeming fiction as per the judgment in ***Sukhvinder Singh’s*** case (supra). Hence, the grant of benefit by the Tribunal by treating the minimum disability as 20% is in accordance with the settled principle of law.

8. Further, as per the settled principle of law settled by Hon’ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was found fit, subsequently upon suffering a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be that the disability suffered is attributable to the Military service. Relevant



paras of the judgment in **Ram Avtar's** case (supra) are 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.”

9. 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 to be rounded off and when applied in the present case, disability of 20% to be rounded off to 50%.

10. Keeping in view the facts and circumstance of the present case as well as the settled principle of law settled in *Ram Avtar's* case (supra), once at the time of selection, respondent No. 1 was medically examined and was found fit in all respects and it was only during the service, respondent No.1 was found suffering from the *CNS (INV) Paraparesis and B12 Deficiency*. That being so, the said disabilities have to be attributed to the military service and the report of Medical Board cannot take away the right of respondent No.1 to claim the benefit of disability pension and that too, by rounding off the disability from 20% to 50% as per the settled principle of law settled in *Ram Avtar's* case (supra).

11. Keeping in view the settled principle of law settled in *Dharamvir Singh's* case (supra), *Sukhvinder Singh's* case (supra) and *Ram Avtar's* case (supra) as well as in the absence of any perversity being pointed out in the impugned order dated 11.07.2024 (Annexure P-1) either on the basis of the facts or the settled principle of law, no ground is made out for any interference by this Court.

12. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 02, 2025
harish

Whether speaking/reasoned	Yes
Whether reportable	No