



CWP-24651-2025

-1-

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

129

CWP-24651-2025

Date of Decision :25.08.2025

Union of India and others

..Petitioners

Versus

Ex. HAV Kashmir Singh & another

...Respondents

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

Present: Mr. Rohit Verma, Senior Panel Counsel
for petitioners-UI.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 02.04.2024 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh, (for short, 'Tribunal') by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element @ 50% as against 20% w.e.f. 01.02.2007 to 31.12.2015 on the ground that the same is perverse.

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 '*Cervical Spondylosis*' @ 20% has been found in respondent No.1, but he has been discharged from service on 31.01.2007 on completion of his terms of engagement rather than being discharged from service on the



CWP-24651-2025

-2-

basis of said disability. Hence, the grant of benefit of rounding off of the disability element @ 50% as against 20% w.e.f. 01.02.2007 to 31.12.2015 by placing reliance upon the judgment of in ***Civil Appeal No. 5591-2006 titled as KJS Buttar vs. Union of India and another, decided on 31.03.2011*** and ***Civil Appeal No.418-2012 Union of India and others vs. Ram Avtar, decided on 10.12.2014*** is incorrect and the facts of the present case have not been appreciated in correct perspective by the Tribunal while passing the impugned order dated 02.04.2024 (Annexure P-1).

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

4. It is conceded fact that at the time when respondent No.1 was discharged from service on 31.01.2007 under Army Rule 13(3) Item III (i) on completion of his terms of engagement and till that time he had already rendered 32 years of service with the petitioners-Union of India. It is also a conceded fact that at the time when respondent No. 1 joined the armed forces, he was medically examined and was found not to be suffering from any such disease rather in the medical report, assessment has been made that said disability has been aggravated by military service on the basis of which, respondent No. 1 has been granted the benefit of disability pension.

5. A perusal of the records reveals that even the Medical Board has assessed that disability '*Cervical Spondylosis*' has been aggravated to the military service. Not only this, the fact that the disability was assessed @ 20% w.e.f. 01.02.2007 to 31.12.2015 has gone un rebutted. Keeping in view this fact also, when even the Medical Board has conceded that the disability incurred to respondent No.1 has been aggravated by the military service



CWP-24651-2025

-3-

hence, filing of the petition by the Union of India is contrary to the recommendations of the Medical Board itself.

6. 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 in a case where disability is found to be attributable to or aggravated by the Military service, which concededly is the situation in present case. 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.”

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 ***Ram Avtar's case (supra)*** to the effect that percentage of disability is to be rounded off and when applied in present case, disability of



CWP-24651-2025

-4-

20% is to be rounded off to 50%.

8. 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 '*Cervical Spondylosis*', which disability has been assessed to be aggravated by military service. That being so, claim of respondent No.1 for the benefit of disability pension by rounding off the disability as per the settled principle of law settled in ***Ram Avtar's case (supra)*** has rightly been allowed by the Tribunal.

9. No other argument has been raised.

10. Hence, in the absence of any perversity being pointed out in the impugned order dated 02.04.2024 (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 in the facts and circumstances of the present case and the writ petition is accordingly dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

August 25, 2025
aarti

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No