

CWP No. 18206 of 2025 **1**

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

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**CWP No. 18206 of 2025
DATE OF DECISION :-07.07.2025**

Union of India and others

...Petitioners

Versus

No. 14574889K Ex. Naik Daya Ram and another

...Respondents

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

Present:- Dr. Anju Sharma, Advocate for the petitioners.

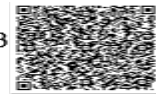
SANJEEV PRAKASH SHARMA, J. (ORAL)

Challenge in the present writ petition is to the order dated 12.03.2019 passed by the Armed Forces Tribunal, Chandigarh (for short 'the AFT') in O.A. No.1320 of 2014 whereby the claim of the respondent for grant of disability pension has been wrongly allowed.

2. Learned counsel has vehemently argued that the injury caused to the Army personnel was at the time of leave which resulted in Compressed Comminuted Fracture of LV-3 and therefore could not be treated as attributable nor aggravated to service. It is a settled law that a person would always be treated on duty even during leave if any accident is occurred which results in its disability the benefit of disability would be admissible to such a person.

3. We have considered the submissions.

4. The issue raised in the present writ petition is no more res-integra. The Hon'ble Supreme Court in a recent judgment dated 23.04.2025

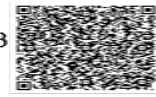


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in *Bijender Singh Vs. Union of India and others*, 2025 SCC OnLine SC 895 has held as under:-

“29. A conjoint reading of various provisions, reproduced above, makes it clear that: 29.1. Disability pension to be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).

29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)]. 29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9). 29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. 29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)]. 29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical



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Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002.”

5. We also notice that the impugned order passed by the AFT way-back as on 12.03.2019 has been challenged in the year 2025 without giving any sufficient reasons. On this count also, we find no merit in the present writ petition and the same is, accordingly, dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

07.07.2025

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No