



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

**CWP-18864-2025 (O&M)
Date of Decision : 11-08-2025**

UNION OF INDIA AND OTHERS

.....Petitioner(s)

VERSUS

EX LNK RAM PARTAP SINGH AND ANOTHER

.....Respondent(s)

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

Present: Ms. Sehej Sandhawalia, Senior Panel Counsel
for the petitioners.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the order dated 06.01.2023, copy of which has been appended as Annexure P-1 passed by the Armed Forces Tribunal, Chandigarh (hereinafter referred as “AFT”) by which, it was held that the respondent No.1 was diagnosed with “**CEREBRAL SEIZURES (345)**”, which was assessed less than 20% i.e. 15% to 19% for 2 years due to which, the respondent No.1 was discharged from service on 30.04.1979, is attributable to the military service and he should be paid the disability pension from 01.05.1979 (AFTER NOON) to 30.04.1981 as, the said disability was a temporary disability for a period of two years, on the ground that the same is perverse.

2. Learned counsel for the petitioners-UOI submits that further direction was given by the AFT vide order dated 06.01.2023 (Annexure P-1)

that the Re-survey Medical Board should be conducted so as to assess as to whether, the respondent No.1 is still medically unfit.

3. Learned counsel for the petitioners argues that once, even at the time of the discharge of respondent No.1 from the service on 30.04.1979, the disability was less than 20% as the same was 15% to 19% and the same should not be rounded off to 20% so as to bring the claim regarding the grant of disability pension of the respondent within the judgment of the **Hon'ble Supreme Court of India in Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316,** so as to grant disability pension of 20% for a period of two years i.e. from 01.05.1979 to 30.04.1981.

4. Learned counsel for the petitioners submits that the disability of “**CEREBRAL SEIZURES (345)**”, which was less than 20% cannot be attributed to the Army or aggravated by the Military Services hence, the observation of the Release Medical Board, could not have been ignored by the AFT while passing the order dated 06.01.2023 (Annexure P-1).

5. Learned counsel for the petitioners further argues that the Re-Survey Medical Board has already been conducted on 30.11.2023, copy of which is appended as Annexure P-6 and as of now, the disability is assessed as 5% for life which is less than 20% and depicts improvement in the condition.

6. We have heard learned counsel for the petitioners-UOI and have gone through the records of the present case with her able assistance.

7. It is conceded fact that at the time when respondent No. 1 was recruited in the Armed Forces, he was found to be medically fit and he had rendered service starting from 28.04.1964 till 30.04.1979 (i.e. for a period of 15 years) hence, it cannot be said that at the time of recruitment, the

respondent No.1 was suffering from the disability as mentioned hereinbefore which ultimately led to his discharge on 30.04.1979 from the Military Service.

8. As per the settled principle of settled by **Hon'ble Supreme Court of India in Dharamvir Singh's case (supra)**, wherein 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 any such disease on the basis of which, he/she has been discharged from service, is entitled to the benefit of disability pension as the disease on the basis of which such officer has been discharged is attributable to the Military service.

9. Further as per the recent judgment of the **Hon'ble Supreme Court of India in Bijender Singh versus Union of India and others, 2025 SSC OnLine SC 895**, the same issue has been considered again and it has been held that even if the disability of the officer has been reduced after the relieving of the officer concerned, the benefit of disability pension has to be granted by rounding off the same.

“46. Referring back to the impugned order dated 26.02.2016, we find that the Tribunal simply went by the remarks of the Invaliding Medical Board and Re-Survey Medical Boards to hold that since the disability of the appellant was less than 20%, he would not be entitled to the disability element of the disability pension. Tribunal did not examine the issue as to whether the disability was attributable to or aggravated by military service. In the instant case neither has it been mentioned by the Invaliding Medical Board nor by the Re-Survey Medical Boards that the disease for which the appellant was invalided out of service could not be detected at the time of entry into military service. As a matter of fact, the Invaliding Medical Board was quite categorical that no disability of the appellant existed before entering service. As would be evident from the aforesaid decisions of this Court, the law has by now crystalized that if there is no note or report of the Medical Board at the time of entry into service that the member suffered from any particular

disease, the presumption would be that the member got afflicted by the said disease because of military service. Therefore the burden of proving that the disease is not attributable to or aggravated by military service rest entirely on the employer. Further, any disease or disability for which a member of the armed forces is invalided out of service would have to be assumed to be above 20% and attract grant of 50% disability pension.

47. *Thus having regard to the discussions made above, we are of the considered view that the impugned orders of the Tribunal are wholly unsustainable in law. That being the position, impugned orders dated 22.01.2018 and 26.02.2016 are hereby set aside. Consequently, respondents are directed to grant the disability element of disability pension to the appellant at the rate of 50% with effect from 01.01.1996 onwards for life. The arrears shall carry interest at the rate of 6% per annum till payment. The above directions shall be carried out by the respondents within three months from today. ”*

10. 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 **Dharamvir Singh's case (supra)** as well as **Bijender Singh's case (Supra)**.

11. Further as per the settled principal of law, the benefit has been granted to the respondent by rounding off the disability to 20% which is in consonance with the judgement of the Hon'ble Supreme Court of India in ***Civil Appeal No.418 of 2012*** titled “***Union of India and ors. Vs. Ram Avtar***, decided on ***10.12.2014***, which fact has gone unrebutted at the hands of the petitioner-UOI.

12. Hence, in the absence of any perversity being pointed out in the impugned order dated 06.01.2023 (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.

13. At this stage, learned counsel for the petitioners submits that the claim of disability pension was rejected vide PCDA (P) letter No.G-3/79/11963/II dated 08.02.1980 and there is a delay of 38 years in approaching the AFT by filing an Original Application No.880 of 2019 for the grant of disability pension along with all consequential benefits or to grant arrears along with interest and damages.

14. Once, it is a conceded fact that the benefit was admissible to the respondent No.1 at the time of his discharge on 30.04.1979, it becomes the duty of the Union to grant the admissible benefit rather than raising the claims to deny the admitted claims, which are covered under the Rules for the grant of disability pension, especially when the same has only been restricted for a period of 2 years only.

15. It must be noticed that an employee, who suffers disability due to the Military Service and is discharged, cannot be denied the benefit even for the period of two years, as and when granted.

16. Present petition stands dismissed.

17. Pending application, if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

11-08-2025
Sapna Goyal

(VIKAS SURI)
JUDGE

Note:	Whether speaking:	YES
	Whether reportable:	NO