



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

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CWP-20496-2025

Date of Decision: 04.08.2025

Union of India and others**...Petitioners****Versus****JC-521842-F Ex Subedar Ram Dass and another****...Respondents**

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present: Mr. Narender Kumar Vashist, Advocate
for the petitioners.

Mr. Navdeep Singh, Advocate with
Ms. Roopan Atwal, Advocate and
Ms. Srishti Sharma, Advocate
for the respondents.

AARADHNA SAWHNEY, J.

1. Challenge in the present writ-petition is to order dated 14.07.2023 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal (for short –‘the AFT’) whereby the AFT had allowed the application of respondent No.1 claiming the ‘War Injury Pension’ based on the provisions contained under letter dated 31.01.2001 issued by the Government of India, Ministry of Defence.

2. Relevant facts as emerging from the documents on record be noticed hereinbelow:

3. Respondent No.1 was enrolled in the India Army on 28.12.1990. He was released from service on 31.12.2018 in low medical



category. At the time of discharge, respondent No.1 was examined by the Release Medical Board (for short – RMB), which assessed the disability as 30% for life, due to Bimalleolar Fracture (RT ankle) which was declared attributable to ‘Military Service’ rendered by him during ‘Operation Rakshak’. On adjudication of claim of respondent No.1, for War Injury Pension, petitioner Department upheld the recommendation of RMB. Decision was communicated to respondent No.1. Aggrieved of the same, an OA bearing No.1648 of 2020 was filed by respondent No.1, which as noted above was decided in his favour, in terms of impugned order dated 14.07.2023. The operative portion thereof reads as under:-

“10. While the case of the applicant is that he is entitled to the grant of war injury pension, at the same time such claim as per the version of the respondents is not covered under the army instructions/circular letter dated 31.01.2001 or any other policy/ rules. The injury in terms of category E of letter dated 31.01.2001, reads as follows:-

“PART II-PENSIONARY BENEFITS ON DEATH/DISABILITY IN ATTRIBUTABLE/ AGGRAVATED CASES.

4.1 For determining the pensionary benefits for death or under different circumstances due to attributable/aggravated causes, the cases will be broadly categorized as follows:-

Category A

xxx

Category B

xxxx



Category C

xxxx

Category D

xxxx

Category E

Death or disability arising as a result of:-

- (i) **Operations specially notified by the Govt. from time to time.**

11. Since the disability **"Bimalleolar fracture (RT) ankle (OPTD) (S-82)** the applicant suffered while detailed at Tang Dhar in Jammu and Kashmir at the line of control and while on his way to lay an ambush left Batherian Post for ambush site i.e. "Seera Two", he slipped and fell down thereby his right ankle twisted and sustained disability from which he was found suffering as per Release Medical Board proceedings Annexure A-2. The present as such is a case covered under **Category E (i)** of the instructions dated 31.01.2001 reproduced hereinabove as the applicant was deployed in an **Operation specially notified by the Govt.** Therefore, the stand of the respondents that war injury element can only be granted to those personnel whose injury is notified as Battle Causality is of no consequence. As a matter of fact, the instructions dated 31.01.2001 referred to hereinabove **Category (E) (i)** substantiate the claim of the applicant for the grant of war injury pension in view of the disability from which he was suffering incurred upon while deployed in **"OPERATION Rakshak"**. **Not only this, the same is even attributable also to military service.** The applicant, as such, is entitled to the grant of War Injury Pension instead of disability pension. The rejection of such claim of the applicant is neither legally nor factually sustainable.



12. *In view of what has been said hereinabove, this application succeeds and the same is, accordingly, allowed. Consequently, there shall be a direction to the respondents to grant to the applicant **War Injury Pension in place disability pension @ 30% by rounding it off @ 50% for life w.e.f. 01.01.2019** as per the law laid down by the **Supreme Court in C.A.No.418 of 2012, titled Union of India and others Vs. Ram Avtar, decided on 10.12.2014**. The due and admissible arrears be calculated and released to the applicant within a period of three months from the date of receipt of certified copy of this order by learned Sr.P.C/OIC Legal Cell, failing which together with interest @ 8% from the date of this order till realisation of the entire amount.”*

4. Aggrieved of the same, the present writ petition has been filed.

5. Learned counsel for the petitioners submits that respondent No.1 is not entitled to grant of Disability Element of Pension, as per para 99(a) read with Category E of para 82 of Pension Regulation for the Army 2008, Part-I. As per Pension Regulation, the War Injury Pension can be granted only in case of invalidation from service on account of disabilities sustained under circumstances mentioned in Category E of Regulation 82. Specific mention was made to the opinion of RMB, which held that the disability (30%) suffered by respondent No.1 is attributable to Military service, during ‘Operation Rakshak’, which is not a war operation instead is a regular ongoing Military Counter Terrorism Operation in Jammu and Kashmir, since 1990. Respondent No.1, as per learned counsel, was not invalidated from service and had been discharged. Thus, when appreciated in the light of the facts of the case, learned AFT (respondent No.2) fell in error



in holding that the disability suffered by respondent No.1 was attributable to Military Service held during war like situations.

5. Submissions advanced hereinabove have been appreciated in the light of Army instructions/circular letter dated 31.01.2001, the relevant portion of which reads as under:-

“Sub.: Implementation of the Government Decisions on the Recommendations of the fifty Central Pay Commission regarding disability pension/war injury pension/special family pension/liberalized family pension/dependent pension/liberalized dependent family pension for the armed forces officers and personnel below officer rank retiring, invaliding or dying in harness on or after 01.01.1996.

Part II - PENSIONARY BENEFITS ON DEATH/DISABILITY IN ATTRIBUTABLE/AGGRAVATED CASES.

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CATEGORY B

Death or disability due to causes which are accepted as attributable to or aggravated by military service as determined by the competent medical authorities. Diseases contracted because of continued exposure to a hostile work environment, subject to extreme weather conditions or occupational hazards resulting in death or disability would be examples.

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CATEGORY D

Death or disability due to acts of violence/attack by terrorists, anti social elements etc. whether on duty other than operational duty or even when not on duty. Bomb blasts in



public places or transport, indiscriminate shooting incidents in public etc. would be covered under this category, besides death/disability occurring while employed in the aid of civil power in dealing with natural calamities.

CATEGORY E

Death or disability arising as a result of:-

(a) enemy action in international war.

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(f) War like situations including cases which are attributable to/aggravated by:

(i) extremist acts, exploding mines etc. while on way to an operational area.

(ii) battle inoculation training exercises or demonstration with live ammunition.

(iii) kidnapping by extremists while on operational duty.

Xxx

(i) Operations specially notified by the Govt. from time to time.”

7. It is thus clear that in terms of category E of the above said letter, War Pension would be available if death or disability arises as a result of factors mentioned therein. One of these factors being that death or disability has arisen as a result of “Operations specifically notified by the Government from time to time”.

8. It is an admitted position that respondent No.1 suffered disability “Bimalleolar Fracture (RT ankle)”, while being deputed during Operation Rakshak, at Tang Dar in J&K, at the Line of Control. He was on



his way to Ambush site “Seera Two”, when he slipped, fell down, twisted his right ankle and suffered disability to the extent of 30%, for life. It is not disputed that “Operation Rakshak”, which is a sort of exercise, in the border areas of Jammu and Kashmir, is an Operation notified by the Government of India, falling in Clause (i) of Category E of letter dated 31.01.2001. Thus, in the light of the facts discussion made hereinabove, the case of respondent No.1 is covered under the aforesaid clause.

9. We do not find any reason to differ with the view already taken by AFT. To construe that since respondent No.1 was not deputed in War Operation and is thus not entitled to War Injury Pension, would tantamount to narrowly interpreting an otherwise widely phrased clause/condition. If the analogy of the petitioner is accepted, then army personnel like petitioner, who are deputed in Operation notified area and suffer a disability while being on duty would never receive a War Injury Pension, even though, they play a crucial role in the success of Operation.

10. Insofar as the submissions raised by the learned counsel for the petitioner, as regards non-exhaustion of the alternate remedy by respondent No.1, is concerned, who straightaway approached the Armed Forces Tribunal and did not file the appeal before the Administrative Authorities, suffice, it would be to point out that no prejudice at all has been caused to the petitioner – Union of India, on account of non-filing of departmental appeal. Moreover, at this belated stage of the proceedings, petition on this score alone cannot be entertained.

11. Judgment referred to by learned counsel for respondent No.1, ***Major Arvind Kumar Suhag Vs. Union of India, 2013 SCC OnLine Del***



757, has also been looked into, wherein also it was held by Delhi High Court that a vehicular accident during an operational movement in an area under the notified operation would entitle a person to the benefit of War Injury Pension, as the disability would fall under the Category E of the letter dated 31.01.2001 issued by the Government of India.

12. Finding no illegality in the impugned order, we hold that the AFT has correctly interpreted the relevant provision and proceeded to grant War Injury Pension to petitioner, instead of Disability Pension.

13. No interference is warranted.

14. Accordingly, the petition stands dismissed.

[AARADHNA SAWHNEY]
JUDGE

[ASHWANI KUMAR MISHRA]
JUDGE

04.08.2025

Nisha Yadav

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No