

2025:PHHC:094390-DB



CWP-20276-2025 (O&M)

Date of Decision: 28.07.2025

Union of India and others

...Petitioners

Vs.

Tej Pal Singh and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE KULDEEP TIWARI****Present:** Mr. Narender Kumar Vashist, Sr. Panel Counsel
for the petitioners.

Mr. Rajesh Sehgal, Advocate for respondent No.1.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal has been filed challenging the order dated 08.01.2024, passed by the Armed Forces tribunal, Regional Bench, Chandigarh, in OA No.1782 of 2022.

2. The Tribunal has allowed the benefits of disability pension to the respondent No.1, who was invalided out from service on account of his disability below 20% for life.

3. Rule 4 of Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Tribunal, 2008, deals with the invalidment from service and the same is reproduced as under:-

Invalidment from service:

(a) Invalidation from service with disablement caused by service factors is a condition precedent for grant of disability pension. However, disability element will also be admissible to personnel who retire or are discharged on completion of terms of engagement in low medical category on account of disability

attributable to or aggravated by military service, provided the disability is accepted as not less than 20%.

4. It is, therefore, apparent that where the army personnel is invalidly out, he would be entitled to disability pension. The extent of disability above 20% is required, instead, in other cases of retirement or discharge on completion of term of engagement in low medical category attributable or aggravated by military service.

5. The issue herein is otherwise concluded by the Hon'ble Supreme Court in the case of **Sukhvinder Singh vs. Union of India (2014) 14 SCC 364.**

“9. 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.

10. In view of our analysis, the Appellant would be entitled to the Disability Pension. The Appeal is, accordingly, accepted in

the above terms. The pension along with the arrears be disbursed to the Appellant within three months from today.”

6. In that view of the matter, this petition lacks merits and is accordingly dismissed.
7. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(KULDEEP TIWARI)
JUDGE

28.07.2025
rajesh

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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |