



145

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCWP-20277-2025 (O&M)*Date of Decision: 29th July, 2025*

UNION OF INDIA AND OTHERS

.....Petitioner(s)

V/s.

NO.1585229 EX. ACP (HAV) BANTA SINGH AND ANOTHER

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
HON'BLE MR. JUSTICE KULDEEP TIWARIPresent Ms. Geeta Singhwal, Senior Panel Counsel,
for the petitioners-UOI.Mr. Navdeep Singh, Advocate,
Mr. Rajesh Sehgal, Advocate,
Ms. Roopan Atwal, Advocate for respondent No.1.**ASHWANI KUMAR MISHRA, J. (Oral)**

1. The present petition, preferred by the Union of India, assails order dated 13.02.2023 passed by the Armed Forces Tribunal (for short “the AFT”), whereby the AFT has allowed the OA No.1662 of 2020 filed by respondent No.1, wherein he had claimed benefit of disability pension along with relief of rounding off.

2. The disability of respondent No.1 as has been noticed by the AFT is “**PIVD L3-L4 WITH LUMBAR CANAL STENOSIS**”. The Release Medical Board (RMB) has assessed the disability to the extent of 30% disablement for life. Relying upon the judgment of the Hon’ble Supreme Court in *Civil Appeal No.418 of 2012* titled as **Union of India and others** Vs. **Ram Avtar** and other cases, the AFT has granted the relief, as prayed for, in the Original Application.

3. Learned counsel for the petitioners-UOI has assailed order dated 13.02.2023 of the AFT on the limited ground that the Release

Medical Board was of the opinion that the disability suffered by respondent No.1 could be taken care of by subjecting him to surgical procedure, but its consent was denied by respondent No.1. It is, therefore, urged that once that be so, the AFT is not justified in granting relief as prayed for by respondent No.1.

4. When the matter was heard yesterday, learned counsel for the respondent No.1 has informed the Court that a circular dated 16.04.2019, has already been issued by the Director General of Armed Forces Medical Services, clearly citing the kind of risk involved in the required spinal surgery and thereby holding that refusal of the personnel to undergo such procedure, ought not to be relied upon against him.

5. The extract of the circular dated 16.04.2019, issued by the competent authority, is reproduced as under:-

“CLARIFICATION ON ASSESSMENT
FOR CASES OF SPINAL DISORDERS

1. *It has been observed that many RMBs are reducing percentage of disability for Spinal Disorder e.g. PIVD in cases where individual have refused to undergo surgery.*
2. *In this context, Para 3, Chapter V, GMO 2002 clarifies that if the refusal to undergo an operation is reasonable, full disability normally admissible may be granted. Refusal to undergo an operation may be held reasonable when in the opinion of medical authorities, it is improbable that such operation would cure the disability or reduce its percentage, or if such operation may be severe and dangerous to life surgeries performed for Spinal Disorders e.g. PIVD have the probability to cure the disability. However, there are underlying complications. Recurrence of symptoms osteoarthritis. Therefore, the refusal of an individual to undergo surgery for Spinal Disorders e.g. PIVD stands to*

reason and hence should not become a reason to reduce percentage disability.

3. All units under your Chain of Command may be advised accordingly.”

6. Once the competent authority of the Army itself has taken the view that the refusal to undergo spine surgery would not be a ground to reduce the percentage of disability, we do not find any good ground for the petitioners-UOI to assail the order passed by the AFT. In such view of the matter, the present Writ Petition stands **dismissed**.

7. All pending applications in this case are disposed of accordingly.

[ASHWANI KUMAR MISHRA]
JUDGE

[KULDEEP TIWARI]
JUDGE

July 29, 2025
Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>