



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

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**CWP-21283-2025 (O&M)
Decided on :06.08.2025**

UNION OF INDIA AND OTHERS

. . Petitioners

Versus

No. 14491116 EX NK PARTAP SINGH AND ANOTHER . . Respondents

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

PRESENT: Ms. Neha Jain, Advocate
Senior Panel Counsel for petitioner-Union of India.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 23.08.2023 (Annexure P-4) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh, by which, the benefit of disability pension by treating the disability of 20 % to 50 % by rounding it off, has been allowed in favour of respondent No. 1 for the rest of his life.

2. Learned counsel for the petitioner submits that at the time when respondent No. 1 was discharged from service on the ground that he was suffering from 20 % disability, namely, *Supracondylar Fracture Left Hymerues*, which percentage of physical disability is enough for discharging an employee from the Armed Forces, the respondent No. 1 was granted the benefit of disability pension @ 20 % for two years w.e.f. 01.05.2001 to 04.02.2003 but later on, the said percentage of disability was reduced and upon reduction of the disability of respondent No.1, the benefit



of disability pension was rightly withdrawn by the petitioners from respondent No. 1, which fact has not been appreciated by the Tribunal in the correct perspective while passing the impugned order dated 23.08.2023 (Annexure P-4).

3. We have heard learned counsel for the petitioners and have gone through the case file with her able assistance.

4. The issue which needs adjudication is whether an employee who has incurred a disability while in service and has been discharged from service on the ground of his/her disability and the disability pension was made admissible to him/her, later on, on the ground that the disability of the said employee has reduced, the disability pension can be being withdrawn or not.

5. It may be noticed that in case, an employee has been discharged from service on the ground of disability and disability pension is made admissible to him/her and subsequently, the disability of the said employee is reduced but the said employee is not taken back in service only on the ground that he was found disabled enough to discharge the duties at the time when he/she was discharged from service hence, even if, the disability of an employee is reduced after his/her discharge, the disability assessed at time of discharge has to continue for the rest of his life as the said employee is not reinstated in service otherwise, an employee who has been discharged on the ground of the disability, will suffer prejudice by not getting the disability pension, despite being relieved from service on the ground of disability.

6. Further, the said issue has already been decided in favour of the respondent No. 1 by the judgment passed by the Hon'ble Supreme Court of India in Civil Appeal No. 5605 of 2010 titled as 'Sukhvinder Singh versus



UOI and others', decided on 25.06.2014.

7. 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 upon reduction of the disability after the relieving of the officer concerned, the disability pension cannot be withdrawn.

“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



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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. ”

8. Learned counsel for the petitioner has not been able to differentiate that keeping in view the law settled by the Hon'ble Supreme Court of India in **Sukhvinder Singh's case (Supra)** as well as in **Bijender Singh's case (Supra)**, the claim of the respondent No. 1 to continue to get the disability pension for the rest of his life is covered in his favor.

9 Hence, in the absence of any perversity, being pointed out in the impugned order dated 23.08.2023 (Annexure P-4) 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.

10. Accordingly, the writ petition is dismissed.

11. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

06.08.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No