



CWP-23261 of 2024

1

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

CWP-23261 of 2024

Date of Decision: December 02, 2025

Union of India and others

.... Petitioners

Versus

Jagdish Ram Damra and another

.... Respondents

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

Present: - Mr. Sushant Kareer, Advocate
for the petitioners.

Ms. Shalini Attri, Senior Panel Counsel

HARSIMRAN SINGH SETHI, J. (ORAL)

1. The challenge in the present writ petition is to the order dated 08.05.2024 (Annexure P-1) passed by the Armed Forces Tribunal by which the respondent has been granted the benefit of disability element of disability pension keeping in view the disability of Benign Essential Tremors which he was suffering from the time when he was invalidated out of service due to low medical certificate from military service after rendering 37 years of service.

2. Learned counsel for the petitioner submits that disability from which respondent No.2 has been suffering from is Benign Essential Tremors which disability was assessed at 50% for life by the Medical Board but, the same was assessed as neither

attributable to nor aggravated by the military service and therefore, the grant of benefit of disability element of disability pension by the Tribunal was in the facts and circumstances of the present case incorrect.

3. Learned counsel for the petitioner argues that the disability suffered could be hereditary also and therefore, grant of said benefit to respondent No.1 by going against assessment made in the medical report of the Board, is in correct.

4. We have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

5. The law on the present issue is settled, according to which whenever an officer who at the time of recruitment in Army was found to be fit, but was later on found to be suffering from a disease at the time of his invalidation or discharge on completion of service or upon low medical category, such army personnel is entitled for benefit of disability element of disability pension by treating that the said disability which arose during the service career, as either attributable to or aggravated by the military service. The Hon'ble Supreme Court of India in **Dharamvir Singh Vs. Union of India 2013 (7) SCC 316** has held that the officer who was found medically fit at the time of recruitment but suffering a disease at the time of release, the said disease has to be treated as attributable

to the military service. The relevant paragraph of the same is reproduced hereinbelow:-

“30. In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by hereditary he is suffering from such disease. In absence of any note in the service record at the time of acceptance of joining of appellant it was incumbent on the part of the Medical Board to call for records and look into the same before coming to an opinion that the disease could not have been detected on medical examination prior to the acceptance for military service, but nothing is on the record to suggest that any such record was called for by the Medical Board or looked into it and no reasons have been recorded in writing to come to the conclusion that the disability is not due to military service. In fact, non-application of mind of Medical Board is apparent from Clause (d) of paragraph 2 of the opinion of the Medical Board, which is as follows:

_ “ (d) In the case of a disability under C the board should state what exactly in their opinion is the cause thereof. YES Disability is not related to mil service”

_XX

XX

XXX

32. In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical

Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In absence of any evidence on record to show that the appellant was suffering from "Generalised seizure (Epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service.

33. As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is not attributable to service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions.

"Classification of diseases" have been prescribed at Chapter IV of Annexure I; under paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a casual connection with the service conditions.. "

6. Keeping in view the facts and circumstances of the present case, wherein it is a conceded fact that at the time when respondent was recruited, he was found to be fit but, after rendering 37 years of service with the Indian Army at the time of discharge, he was found to be suffering from Benign Essential Tremors which disability was assessed at 50% for life by the Medical Board. The said disability from which respondent was found to be suffering and hence, has to be attributed to the military

service and the view taken by the Tribunal is perfectly valid so as to grant the disability pension.

7. Even otherwise, as per the rules governing the service and settled principle of law settled by **Dharamvir Singh's case (supra)** the presumption is in favour of a personnel that disability suffered by such personnel, especially when he was found to be fit at enrollment, is attributable to or aggravated by military service, as the case may be, and the onus is upon the employer to show/prove that such disability is neither attributable to or aggravated by military service, which concededly has not been done by the learned counsel for the petitioner.

8. Qua second grievance of petitioner qua grant of benefit of rounding off of disability element of disability pension; as per the judgment of the Hon'ble Supreme Court of India in Union of India and others Vs. Ram Avtar, 2014 SCC Online SC 1761 the disability assessed @ of 50% is to be rounded off to 75% which benefit has been rightly given to the respondent.

9. Learned counsel for the petitioners has not been able to dispute the said principle of law.

10. No other argument has been raised by learned counsel for the petitioners.

11. In view of the above, no ground is made out for interference by this Court. Accordingly, the present writ petition is dismissed.

12. Pending application, if any shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

December 02, 2025
archana

Whether speaking/reasoned	Yes
Whether Reportable	No