



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

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**CWP-22577-2025 (O&M)
Decided on :06.08.2025**

UNION OF INDIA THROUGH ITS SECRETARY TO GOVERNMENT
OF INDIA AND OTHERS . . . Petitioners

Versus

NO 15167317H EX NK SURENDRA KUMAR AND ANOTHER
. . . Respondents

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

PRESENT: Mr. S. K. Sharma, Senior Panel Counsel for the petitioners.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 01.12.2023 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh, by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability of 20 % to 50 % for life keeping in view the facts and circumstances of the present case.

2. Learned counsel for the petitioners places reliance upon the report of medical examination of the respondent No. 1 to hold that though the disability of *Seizure Disorder* has been found in respondent No.1, but the same has been held to be 'neither attributable to Military Service nor aggravated by the Military service' hence, the grant of benefit of disability pension to respondent No. 1 by placing reliance upon the judgment of



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Hon'ble Supreme Court of India in Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316 is incorrect.

3. Learned counsel for the petitioners further submits that once, the report of the Medical Board clearly states that the disability of respondent No. 1 is neither attributed to military service nor aggravated by the military service, the grant of benefit of disability pension to respondent No. 1 is incorrect, and the judgment passed in **Dharamvir Singh's case (supra)** has not been appreciated in correct perspective by the Tribunal while passing the impugned order dated 01.12.2023 (Annexure P-1).

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

5. It is conceded fact that at the time when respondent No. 1 was relieved from service on medical ground, he had already rendered more than 18 years of service with the petitioner-Union of India. It is also a conceded fact that at the time when respondent No. 1 joined the armed forces, he was medically examined and was not found suffering from any such disease, on the basis of which, respondent No. 1 was ultimately discharged from service on medical grounds.

6. As per the settled principle of settled by **Hon'ble Supreme Court of India in Dharamvir Singh's case (supra)**, which has also been considered by the Tribunal in paragraph No. 6 of the impugned order dated 01.12.2023 (Annexure P-1), any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was not found suffering any such disease on the basis of which, he/she has been discharged from service, is entitled to the benefit of disability pension as the disease on the basis of which such officer has been discharged is attributable to the Military service.



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 if, the disability was reduced after the relieving of the officer concerned, the benefit of disability pension has to be granted by rounding of the same. The relevant paragraphs of the said judgment is as under:-

“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 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



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three months from today. ”

8. Learned counsel for the petitioners has not been able to dispute the said proposition of law having been settled by the Hon'ble Supreme Court of India in **Dharamvir Singh's case (supra)** as well as **Bijender Singh's case (Supra)**,

9. Keeping in view the settled principle of law settled in **Dharamvir Singh's case (supra)** and **Bijender Singh's case (Supra)**, as well as the facts and circumstances of the present case that at the time of selection, respondent No. 1 was medically examined and was found fit in all respects and it was only after the respondent No. 1 rendered the service of 18 years with the petitioner- UOI, he was found suffering from the *Seizure Disorder*. That being so, the said disability has to be attributed to the military service and the report of medical board cannot take away the right of respondent No. 1 to claim the benefit of disability pension.

10. Hence, in the absence of any perversity being pointed out in the impugned order dated 01.12.2023 (Annexure P-1) 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.

11. Accordingly, the writ petition is dismissed.

12. 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

