



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(148)

CWP No. 24014 of 2025

Date of Decision : 20.08.2025

Union of India and others

...Petitioners

Versus

Col. Vijender Kumar Singh (Retd.) and another

...Respondents

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

Present: Mr. Praveen Chander Goyal, Senior Panel Counsel
for the petitioners.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 17.10.2022 (Annexure P-1) passed by the Armed Forces Tribunal in OA No. 2500 of 2019 by which, the benefit of disability pension has been allowed by rounding off the disability element of 60% (20% + 40%) to 75% for life.

2. Learned counsel for the petitioners submits that the respondent No. 1 joined the Armed Forces on 14.12.1985 and was prematurely retired on 08.04.2014. While in service, he suffered disabilities namely, (i) *primary hypertension* and (ii) *Type-2 Diabetes Mellitus*. Learned counsel submits that out of the two disabilities primary hypertension was attributed to the military service but the Diabetes was not for which the respondent No. 1 filed an OA No. 2782 of 2017, which was allowed so as to take the Diabetes also as attributable to the military service and the disability was assessed at 40%.

3. Learned counsel submits that thereafter, a notice was served by the respondents so as to claim that even the disability of (i) *Cervical &*



Spondylosis (2) Otitic Barotrauma (RT Ear)’, should also be attributed to the military service and his disability should be enhanced from 40% to 60% and thereafter, should be rounded of 75% for life and for the said purpose OA No. 2500 of 2019 was filed and vide impugned order dated 17.10.2022, even the said claim has been allowed and the disabilities of (i) *Cervical & Spondylosis (2) Otitic Barotrauma (RT Ear)*’, have been treated to be attributed to the military service and the combined disability of 60% has been rounded of to 75% as per the judgment in ***Union of India and others Vs. Ram Avtar***, 2014 SCC Online SC 1761.

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

5. It may be noticed that once, the disability of ‘*Cervical & Spondylosis*’ was assessed by the Medical Board @ 20% for life and aggravated by military service, the claim of respondent No. 1 for grant of disability pension in addition to 40% for life could not have been rejected by the Administrative Authority. As per the judgment of the Hon’ble Supreme Court of India in the case of ***Ex Sapper Mohinder Singh Vs. Union of India and others, (Civil Appeal No. 104 of 1993)***, decided on 14.01.1993, wherein, the Hon’ble Apex Court has observed that the administrative authority cannot sit over the opinion of a medical board. The observations made in the judgment in the case of ***Ex Sapper Mohinder Singh (supra)***, being relevant is quoted below :-

“From the above narrated facts and the stand taken by the parties before us, the controversy that falls for determination by us is in a very narrow compass viz. Whether the Chief Controller of Defence Accounts (Pension) has any jurisdiction to sit over the opinion of the experts (Medical Board) while



dealing with the case of grant of disability pension, in regard to the percentage of the disability pension or not. In the present case, it is nowhere stated that the petitioner was subjected to any higher medical Board before the Chief Controller of Defence Accounts (Pension) decided to decline the disability pension to the petitioner. We are unable to see as to how the accounts branch dealing with the pension can sit over the judgment of the experts in the medical line without making any reference to a detailed or higher Medical Board which can be constituted under the relevant instructions and rules by the Director General of Army Medical Core”.

6. Further, as per the judgment of the Hon’ble Supreme Court of India in ***Ram Avtar’s case (supra)***, the disability suffered by an Officer during service has to be rounded off. Relevant paragraphs No. 4, 5, 6 and 7 are as under :-

“4. By the present set of appeals the appellant(s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding-off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No. 1(2)/97/D(Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.

5. We have heard learned counsel for the parties to the lis.

6. We do not see any error in the impugned judgment(s) and order(s) and therefore all the appeals



which pertain to the concept of rounding-off of the disability pension are dismissed, with no order as to costs.

7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.”

7. Keeping in view the above, respondent No. 1 has rightly been held entitled for grant of disability pension qua the disability which has been held to be attributable to military service even by the Medical Board by rounding off the disability element @ 75% as against 60%.

8. Learned counsel for the petitioners has not been able to prove that the judgment of the Tribunal is perverse either on facts or the settled principle of law settled by the Hon’ble Supreme Court of India in ***Ram Avtar’s case (supra)***.

9. No interference is called for by this Court in the present petition.

10. Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 20, 2025

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Whether speaking/reasoned : Yes
Whether reportable : No