

CWP-25511-2024 &
CWP-26032-2024

1

2025:PHHC:160289-DB



217+221

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25511-2024
Date of decision: 18.11.2025

1)

UNION OF INDIA AND OTHERS ...Petitioners

VERSUS

EX SEP HARBHAJAN SINGH AND ANOTHER ...Respondents

2)

CWP-26032-2024

UNION OF INDIA THROUGH ITS SECRETARY TO
GOVERNMENT OF INDIA AND OTHERSPetitioners

Versus

NO 2669172K EX SEP RISAL SINGH AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Ashish Chaudhary, Advocate
for the petitioners in CWP-25511-2024.

Mr. Shiv Kumar Sharma, Senior Panel Counsel
for the petitioners in CWP-26032-2024.

HARSIMRAN SINGH SETHI, J. (Oral)

1. By this common order, the above-noted petitions are hereby adjudicated as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are taken from CWP-25511-2024.
2. In the present petition, the challenge is to the impugned



order dated 03.01.2020 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Chandigarh Bench (for short, 'Tribunal') by which, respondent No.1 has been allowed the benefit of service element alongwith disability element of disability pension.

3. Learned counsel for the petitioners places reliance upon the report of medical examination of respondent No.1 to contend that the disability of "*PIVD (OPTD)*" has been found to be existing in respondent No.1, which was held to be attributable to and aggravated by the military service by the Medical Board. Hence, the grant of benefit of disability pension with service element to respondent No. 1 @ 50% as against 20% w.e.f. 01.12.2003 by not considering the fact that he was re-enrolled in Defence Security Corps (DSC) service and had only rendered 13 years and 52 days of service by the Tribunal by placing reliance upon the judgment of the Tribunal in Original Application No.146 of 2010 titled as ***Prabhu Ram vs. Union of India and others***, and the judgment of the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar***, 2014 SCC Online SC 1761, is incorrect.

4. The learned counsel for the petitioners further submits that in the Defence Security Corps (DSC) service, for the grant of service pension 15 years of qualifying service is mandatory under the provisions of Rule 132 of Pension Regulation for the Army 1961 whereas, respondent No.1 had rendered only 13 years and 52 days of service with the DSC whereafter, he was not granted further extension of service.

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



6. It may be noticed that the Union of India has raised the claim that the officer concerned did not have 15 years service in his credit to get the benefit of service element while fixing the disability pension, but, the said question of law is no longer *res integra* as, the same has already been decided by Hon'ble Supreme Court of India in Civil Appeal No. 4714-4715 of 2012 titled as **Union of India and others versus V. R. Nanukuttan Nair, decided on 07.11.2019** wherein the Hon'ble Supreme Court of India was dealing with the similar service regulations of Navy. The regulation 107 of the Navy (Pension) Regulations, 1964 which was mentioned in the said judgment is the *pari materia* to the service regulations No. 183 of the Pension Regulation for the Army Act, 1961, which is applicable in the present case.

7. After considering the said regulations, the findings which have been recorded by the Hon'ble Supreme Court of India in paragraph No. 19 is as under:-

“19) In view of the principles of interpretation relating to Casus Omissus, we find that a reading of the Regulations does not lead to an inference that the service element should be limited to an individual who has completed minimum 15 years of engagement. Regulation 78 cannot be read into Regulation 105B when no such qualification is provided in Regulation 105B. ”

8. Learned counsel for the petitioners has not been able to rebut the said settled principle of law.

9. Not only this, the similar issue was raised by the Union of India in **CWP No. 2412 of 2025, titled as “ Union of India and others versus No. 763665 Ex Cpl Kishor Chandra Mohanty and another”**, decided on 29.01.2025 and after imposing the cost of Rs. 25, 000/- , the Co-ordinate



Bench of this Court, dismissed the said writ petition by recording the findings that despite settled principle of law, the writ petitions are being filed by the Union of India by ignoring the provisions of law.

10. Once again, the Coordinate Bench of this Court while dismissing three writ petitions filed by the Union of India i.e. CWP-1947- 2025 on the same cause by recording the findings that the “service element” is being confused with the “service pension”, which is incorrect and similar writ petitions were dismissed.

11. Learned counsel for the petitioners has not been able to rebut the said judgments which have been referred herein before according to which even if, an officer has completed less than 15 years in service but was discharged from service on the ground of disability suffered by the officer concerned during the service, which disability was attributable to the military service, the service element has to be taken into account as per the regulations 183 of the 1961 regulations.

12. Further, with regard to the grievance of petitioners qua the ‘rounding off of disability pension’ the same issue has been settled by the Hon’ble Supreme Court of India in *Ram Avtar’s case (supra)*, wherein it has been held that any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her enrolment and was found fit, is subsequently found to be suffering with a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be in favour of such employee, that the disability suffered during the service is attributable to the Military service. Relevant paras of the judgment in *Ram Avtar’s case (supra)* 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.”*

13. 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 ***Ram Avtar’s case (supra)*** to the extent that the disability element is to be rounded off and in the present case, the disability of 20% is to be rounded off to 50%.

14. Further, in a recent judgment in ***Civil Appeal No.11311 of 2025 titled as Union of India and others vs. Reet MP Singh and another, decided on 01.09.2025***, the Hon’ble Supreme Court of India by



placing reliance upon *Ram Avtar’s case (supra)* as well as *Bijender Singh vs. Union of India and others, 2025 SCC Online SC 895*, has again reiterated that the benefit of rounding off the disability element cannot be denied.

15. Keeping in view the totality of facts and circumstances and as the learned counsel for the petitioners has not been able to prove that the impugned order dated 03.01.2020 (Annexure P-1) is perverse 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 and the writ petition is accordingly dismissed.

16. Accordingly, the writ petition is dismissed.

17. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

18.11.2025
Ali

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No