



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

CWP-25937-2025

Date of Decision: 02.09.2025

UNION OF INDIA AND OTHERS

...Petitioners

Versus

MAJOR ABHAY GARG AND ANR

...Respondents

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

Present:- Ms. Gurmeet Kaur Gill, Senior Panel Counsel,
for the petitioners.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the challenge is to the impugned order dated 03.01.2024 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element from 30 % to 50 % for life, on the ground that the same is perverse.

2. The only argument raised by the learned counsel for the petitioners submits that the grant of benefit of disability pension to respondent No.1 by the Tribunal vide order dated 03.01.2024 (Annexure P-1) by placing reliance upon the judgment of Hon'ble Supreme Court of India in **Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761**, is incorrect.

3. We have heard learned counsel for the petitioners and have



gone through the case file with her able assistance.

4. It is conceded fact that at the time when respondent No. 1 was relieved from service i.e. 31.10.2020 on the ground of disability, which disability was attributable to the military service by the Medical Board but Union of India denied the benefit of disability pension by holding that disability was not attributable to the military service, which action of the State was made subject matter before the Tribunal.

5. As per the settled principle of law settled by Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar***, 2014 SCC Online SC 1761, any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was found fit, subsequently upon suffering a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be that the disability suffered 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.”

6. 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 proving that disability is not attributed to military service is upon employer and report of Medical Board cannot be accepted especially when no disability was detected at the time of entry into service, relevant paras are 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 three months from today.”*

7. Learned counsel for the petitioner 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) as well as **Bijender Singh’s** case (supra).

8. Keeping in view the settled principle of law settled in **Ram Avtar’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 respondent No. 1 rendered service for 05 years with the



petitioner-UOI, he was found to be suffering from the Idiopathic Nephrotic Syndrome – Minimal Change Disease disability was found to be attributable military service by the Medical Board but no evidence has been brought on record to show this Court that the disability is not attributable to military service, especially when the Medical Board is of the view that disability suffered by respondent No.1 is attributable to military service. That being so, the said disability has to be attributed to the military service as the report of Medical Board and the opinion of the Government cannot take away the right of respondent No.1 to claim the benefit of disability pension.

9. No other argument has been raised.

10. Hence, in the absence of any perversity being pointed out in the impugned order dated 03.01.2024 (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 application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 02, 2025
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Whether speaking/reasoned	Yes
Whether reportable	No