

**CWP-26285-2025****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(122)****CWP-26285-2025****Date of Decision : September 04, 2025****Union of India and others****.. Petitioners****Versus****Phool Singh and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI****Present: Ms. Bhanava Datta, Senior Panel Counsel,
for the petitioners-UOI.****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, (for short, 'the Tribunal') by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element @ 50% as against 40% w.e.f. 01.01.2006 to 31.12.2015 for life on the ground that the same is perverse.

2. Learned counsel for the petitioners places reliance upon the report of medical examination of respondent No. 1 to contend that though the disability of '*Bilateral Sensori Neural Hearing Loss 389*' has been found in respondent No.1, but he has been discharged from service on 31.03.1996 at his own request on completion of his terms of engagement under Army Rules 13 (3) Item III (IV). Hence, the grant of benefit of disability pension to respondent No.1 by rounding off the disability element @ 50% as against 40% w.e.f. 01.01.2006 to 31.12.2015 for life by placing reliance upon the judgment of in



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Civil Appeal No. 5591-2006 titled as KJS Buttar vs. Union of India and another, decided on 31.03.2011 and *Civil Appeal No.418-2012 Union of India and others vs. Ram Avtar, decided on 10.12.2014* is incorrect and the facts of the present case have not been appreciated in correct perspective by the Tribunal while passing the impugned order dated 01.12.2023 (Annexure P-1).

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 discharged from service on 31.03.1996 at his own request on completion of his terms of engagement under Army Rule 13(3) Item III (iv), he had already rendered more than 19 years of service with the petitioners-Union of India. It is also a conceded fact that at the time when respondent No. 1 joined the armed forces i.e. 07.07.1976, he was medically examined and was not found suffering from any such disease, on the basis of which, respondent No. 1 has been granted the benefit of disability pension.

5. A perusal of the records reveals that even the Medical Board has assessed disability of “*Bilateral Sensori Neural Hearing Loss 389*” and held to be attributable to and aggravated by the military service, which fact has gone un rebutted. Keeping in view this fact also, when even the Medical Board has conceded that the disease which led to the discharge of the officer concerned was aggravated by the military service, filing of the petition by the Union of India is contrary to the recommendations of the Medical Board itself.

6. As per the settled principle of law even if an Officer is relieved upon its own request keeping in view the disability suffered during service,

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disability pension is the entitlement. Learned counsel for the petitioners has not been able to rebut the said settled proposition of law.

7. Further, 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.”



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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 ***Ram Avtar's case (supra)*** to the effect that percentage of disability is to be rounded off and when applied in present case, disability of 50% is to be rounded off to 40%.

9. Keeping in view the facts and circumstance of the present case as well as the settled principle of law settled in ***Ram Avtar's case (supra)***, once at the time of selection, respondent No. 1 was medically examined and was found fit in all respects and it was only during the service, respondent No.1 was found suffering from *Bilateral Sensori Neural Hearing Loss 389"*. That being so, claim of respondent No.1 for the benefit of disability pension by rounding off the disability from 50% to 40% as per the settled principle of law settled in ***Ram Avtar's case (supra)*** has rightly been allowed by the Tribunal.

10. No other argument has been raised.

11. 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 and the writ petition is accordingly dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

September 04, 2025
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No