



CWP-28670-2024

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

(226)

CWP-28670-2024

Date of Decision : November 18, 2025

Union of India and others

.. Petitioners

Versus

Ex. Sgt Vijayveer Singh and another

.. Respondents

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

Present: Mr. Narender Kumar Vashist, Advocate, for the petitioners.

Ms. Bhavana, Advocate, for
Mr. Namit Khurana, Advocate, for respondent No.1.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present petition, the challenge is to the impugned order dated 08.12.2023 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh, (hereinafter referred to as 'the Tribunal') by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element from 20% to 50% w.e.f. from the next date of discharge from service i.e. 01.12.2017 on the ground that the same is perverse.

2. Learned counsel for the petitioners submits that the respondent No.1 joined the Indian Air Force on 15.11.1997 and was discharged from service on 30.11.2017 in a low medical category A4G2 (Permanent) and his disability i.e. '*Noise Induced Hearing Loss (B/L) with Tinnitus*' was assessed by Release Medical Board at 15-19% for life and therefore, as the disability was not assessed upto 20% which is a must and condition precedent for the grant of disability pension, the Tribunal exceeded its jurisdiction while granting the said relief to respondent No.1.



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3. Ms. Bhavana, Advocate for Mr. Namit Khurana, Advocate has put in appearance on behalf of respondent No.1 and submits that it is a conceded fact that the disability of '*Noise Induced Hearing Loss (B/L) with Tinnitus*', which was suffered by respondent No.1 while being in service, has already been held to be attributable to the military service. Learned counsel for respondent No.1 further submits that as per the settled principle of law settled in ***Civil Appeal No.5605 of 2010 decided on 25.06.2014 titled Sukhvinder Singh vs. Union of India and others***, the disability, even if, assessed at less than 20%, leads to the circumstances where personnel concerned cannot discharge the duties assigned to him/her and has to be relieved from duty, such a disability is deemed to be treated minimum of 20% so as to grant the benefit of disability pension to personnel concerned and said disability of 20% has rightly been rounded off to 50% keeping in view the judgment of the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***.

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

5. On being asked that whether, with the disability from which respondent No.1 suffered, the personnel concerned could have continued in service and performed his duties without any hindrance, learned counsel for the petitioners has not been able to rebut the fact that while suffering with the said disability, the officer could not have continued in service. Once, it was an established fact that the officer concerned could not have continued in service owing to the said disability, the only option available was to invalidate him out of service. Since, the reason for being relieved from service is the disability aggravated during the service period, the claim of the petitioner that the



benefit of disability pension could not be granted to respondent No.1, cannot be accepted. The disability which is aggravated during military service, forms the basis of him being relieved from service.

6. As per the judgment in ***Sukhvinder Singh's case (supra)***, when the injury/disability, which led to an army personnel being invalidated from service is assessed at less than 20%, for the purpose of the grant of disability pension to such army personnel, the same has to be treated at a minimum of 20%. The relevant paragraph of the judgment is as under:

“11. We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount to granting a premium to the Recruitment Medical Board for their own negligence.

Secondly, the morale of the Armed Forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined.

Thirdly, there appear to be no provisions authorizing the discharge of invaliding out of service where the disability is below 20 percent and seems to us to be logically so.

Fourthly, whenever a member of the Armed Forces is invalidated out of service, it perforce has to be assumed that his disability was found to be above 20%.

Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty percent disability pension.”



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7. 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.

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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.”*

8. Further, as per the principle of law settled by the Hon’ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, and upheld in ***Union of India and others vs. Reet M.P. Singh and another, decided on 01.09.2025***, any disability of 20%, is to be rounded off to 50%, which settled principle of law, has not been rebutted by the learned counsel for the petitioners.

9. Keeping in view the facts and circumstances of the present case coupled with settled principle of law, the impugned order dated 08.12.2023 (Annexure P-1) passed by the Tribunal, has not been shown to be perverse in any manner. Hence, no ground is made out for any interference by this Court in the facts and circumstances of the present case and the present petition is accordingly dismissed.

10. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

November 18, 2025
harsha

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No