



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

111**CWP-27390-2025****Date of Decision: 15.09.2025****Union of India and others****....Petitioners****Versus****Smt. Urmila Devi and another****....Respondents**

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

Present: Ms. Neha Jain, Senior Panel Counsel
for the petitioners.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 21.03.2023 (Annexure P-3) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal), by which, the husband of the respondent No.1 has been held entitled to be granted Special Family Pension instead of Ordinary Family Pension from the day next to the date of death of her husband late L/NK Anil Kumar i.e. 20.03.2006.

2. Learned counsel for the petitioners contends that though the disability of "Acute Myeloid Leukaemia Relapse" has been diagnosed and found to be existing in the husband of the respondent No.1 on 19.06.2004, but the same is neither attributable to nor aggravated by the Military service and the opinion of Medical Board declaring the disease as attributable to military



service is wrong hence, the grant of benefit of special family pension to the respondent by the Tribunal has been wrongly allowed. Hence, the order dated 21.03.2023 (Annexure P-3) passed by the Tribunal is incorrect.

3. The learned counsel for the petitioner has placed reliance on regulation 173 of Pension Regulation and the judgment passed by Hon'ble Supreme Court of India in ***Narsingh Yadav vs. Union of India and others, (2019) 9 SCC 667***, to contend that impugned order dated 21.03.2023 (Annexure P-3) passed by the Tribunal is incorrect, consequently the benefit of Special Family Pension could not have been granted to respondent No.1.

4. Learned counsel for the petitioners submits that though, the disability of "*Acute Myeloid Leukaemia Relapse*" has been diagnosed and found to be existing in the husband of respondent No.1 but the same cannot be treated as attributable to the military service hence, the grant of special family pension by the Tribunal, in the facts and circumstances of the present case, is incorrect and the order dated 21.03.2023 (Annexure P-3) passed by the Tribunal is liable to be set aside.

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 report of the Medical Board has been placed on record of the present proceedings. As per the medical report, in the column whether the disability was contracted while in service, the same has been answered as 'yes' by the Medical Board. Once the said medical disability has given the finding that the disability suffered by the husband of respondent No.1 was while in service and was attributable to military service coupled with the fact that at the time when the husband of respondent No.1 was



appointed, he was not suffering from the said ailment even as per the settled principle of law enunciated by the Hon'ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316***, needs to be made applicable. The relevant paragraphs of the said judgment are as under:

“30. In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by hereditary he is suffering from such disease. In absence of any note in the service record at the time of acceptance of joining of appellant it was incumbent on the part of the Medical Board to call for records and look into the same before coming to an opinion that the disease could not have been detected on medical examination prior to the acceptance for military service, but nothing is on the record to suggest that any such record was called for by the Medical Board or looked into it and no reasons have been recorded in writing to come to the conclusion that the disability is not due to military service. In fact, non-application of mind of Medical Board is apparent from Clause (d) of paragraph 2 of the opinion of the Medical Board, which is as follows:

(d) In the case of a disability under C the board should state what exactly in their opinion is the cause thereof. YES ”

31. XXXX XXXX XXXX XXXX

32. *In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension*



Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In absence of any evidence on record to show that the appellant was suffering from "Generalised seizure (Epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service.

33. As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is not attributable to service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions."

7. With regard to the averment that, according to Regulation 173 of the Pension Regulations for the Army, 1961, read with the judgment in ***Narsingh Yadav's case (supra)***, the benefit of special family pension could not have been granted, it may be noticed that as per Regulation 173 of the Pension Regulations for the Army, 1961, in case the disability is more than 20% and is attributable to the military service, the disability pension has to be granted and after the death of such employee, special family pension is to be granted to the legal heirs i.e. the wife.

8. Learned counsel for the petitioners has not been able to dispute that the disability in the present case was above the minimum required i.e. 20% for which the benefit of special family pension has been granted.

9. With regard to the ***Narsingh Yadav's case (supra)***, in the present case, the Medical Board has categorically held that the disability was suffered



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while in service; hence, the judgment in *Narsingh Yadav's case (supra)*, will not be applicable, as the same is applicable where the finding is that the disability existed prior to joining the service, which is not the fact in the present case.

10. Hence, in the absence of any perversity being pointed out in the impugned order dated 21.03.2023 (Annexure P-3) either on the basis of the facts on record 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 15, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No