

**CWP-30451 of 2024****I****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CWP-30451 of 2024****Date of Decision: December 02, 2025****Union of India and others****.... Petitioners****Versus****Ex. AC (UT) Ravinder Kumar and another****.... Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: - Mr. B. S. Khaira, Senior Panel Counsel
for the petitioners.

Mr. Akash Kundu, Advocate
for respondent No.1.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. The challenge in the present writ petition is to the order dated 19.12.2022 (Annexure P-1) passed by the Armed Forces Tribunal Regional Bench, Chandigarh at Chandimandir (for short the 'Tribunal') by which the respondent No.1 has been granted the benefit of disability pension keeping in view the disability which he was suffering at the time when he has been invalidated out on 08.06.1990 due to low medical certificate from military service.
2. Learned counsel for the petitioner submits that the benefit of disability pension has been granted in favour of the respondent though, the said disability of Vitreous Haemorrhage RT eye 378 E-819", 30% for 2 years was suffered by the respondent while going on leave from the Unit to his home. He further submits that once

the disability was suffered in an accident that too while going to avail the annual leave, the said disability could not have been treated as attributable to military service so as to grant the disability pension to the respondent.

3. Learned counsel for the respondent controverts the same and submits that upon the grant of annual leave the respondent boarded the train from Banglore on 01.12.1989 and reached Ferozepur Cantt. on 03.12.1989 and while going from Ferozepur Cantt. railway station to Ferozepur City, he met with an accident and therefore, the said accident was suffered while in transit from the Unit to his home, being on annual leave, which is to be treated as a duty period, the tribunal has rightly assessed the disability attributable to the military service so as to grant disability pension.

4. Learned counsel for the respondents submits that the issue raised is covered by the judgment rendered by the Hon'ble Supreme Court of India in **Civil Appeal No.11239 of 2025** decided on 30.09.2025 titled as **Union of India and others Vs. Ex.HAV Rajesh Kumar and another** wherein, on the similar facts by noticing the principles of law the grant of benefit by the tribunal has been upheld.

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

6. The issue which has been raised in the present case, has already been decided by the Hon'ble Supreme Court of India in

Civil Appeal No.1926 of 1999, titled as **Madan Singh Shekhawat Vs. Union of India and others** decided on 17.08.1999, wherein it was held that the grant of disability pension is governed by the various provisions in the Defense Service Regulations and as per Rule 10 of the said Regulations, the period of casual leave counts as duty period. Further, in case where an army personnel is travelling either for the purpose of joining the family back after coming from the unit or vice versa, the same is to be treated as part of the duty. Hence, it cannot be said that the act of respondent No.1 of going back to his home while being on duty, and meanwhile meeting with an accident on the way which led to the disability of respondent No. 1, is not attributed to or connected with the military service.

7. The same issue was again considered by the Hon'ble Supreme Court of India in **Civil Appeal No.2433 of 2011, titled as Union of India and another vs. Surendra Pandey, decided on 18.09.2014** wherein it has been held that travelling back to join the family from the Unit and meeting with an accident on the way, has to be treated as connected with and attributed to the military service, so as to grant the benefit of special family pension to the wife of the deceased officer. The reliance was placed upon the judgment in **Madan Singh Shekhawat's case (supra)**.

8. While deciding **Civil Appeal No. 5625 of 2008, titled as Ravindran P.M. vs. Union of India and others, decided on**

11,09.2008, Hon'ble Supreme Court of India has held that when an officer meets with an accident while in possession of an out pass, which out pass gives the jurisdiction to the personnel concerned to travel outside the military area, the happening of an accident during such travel, and injuries suffered or the death occurred during such travel has to be seen as related to and attributed to military service so as to grant the benefit of disability pension in case of injury or the special family pension in case of death. The relevant paragraphs of the judgment is as under:-

“This appeal is directed against the judgment and order dated 27th July, 2005 passed by the High Court in Kerala in O.P. No.13522(1) of 1997 dismissing the appellant's claim that he was entitled to disability pension, having suffered injuries in an accident while in possession of an 'out pass'.

On behalf of the appellant, who has enrolled in the Army in 1980, it was submitted that since he had been involved in an accident while he was holding such 'out pass', it must be held that he was on duty at the relevant point of time. The High Court had negated the said stand and, accordingly, the appellant has filed the instant appeal.

Having heard learned counsel for the parties and having considered the answer from the Army authorities, addressed to the appellant on 2nd April, 2008, in reply to the application filed by him on 30th September, 2007 under the Right to Information Act, 2005 defining 'out pass' to be a permission accorded to an individual to proceed outside the unit precincts as per the customs of service and further clarifying that during the said period the

person concerned is deemed to be on duty and continues to remain subject to the Army Act, we are inclined to accept the case made out by the appellant. It must also be indicated that the learned Additional Solicitor General was not in a position to dispute the said contention in view of the said communication from the Army authorities.

Accordingly, we allow the appeal, and upon holding that the appellant continued to be on duty while in possession of an 'out pass', we further hold that he would be entitled to disability pension as claimed by him."

9. Thereafter, the same issue again came up for consideration before the the Hon'ble Supreme Court of India in **Civil Appeal No.4981 of 2012, titled as Secretary, Government of India and others vs. Dharambir Singh, decided on 20.09.2019**. The issue as to under what circumstances, an injury suffered or death can be treated as related to the Army service. The relevant extract of paragraph 36 is as under:-

"36. (e) The hazards of Army service cannot be stretched to the extent of unlawful and entirely unconnected acts or omissions on the part of the member of the force even when he is on leave. A fine line of distinction has to be drawn between the matters connected, aggravated or attributable to military service, and the matter entirely alien to such service. What falls ex-facie in the domain of an entirely private act cannot be treated as legitimate basis for claiming the relief under these provisions. At best, the member of the force can claim disability pension

if he suffers disability from an injury while on casual leave even if it arises from some negligence or misconduct on the part of the member of the force, so far it has some connection and nexus to the nature of the force. At least remote attributability to service would be the condition precedent to claim under Rules 173. The act of omission and commission on the part of the member of the force must satisfy the test of prudence, reasonableness and expected standards of behaviour.”

10. A bare perusal of the above would show that though the Hon’ble Supreme Court of India held that hazards of the army service cannot be stretched to the extent of unlawful and entirely unconnected acts or omissions on the part of the member of the Force, when such officer is on leave, but a fine distinction has to be drawn between the matters connected, aggravated or attributable to the military service. The members of the Force have the right to claim for benefit of disability pension if he suffers disability from an injury while availing casual leave, even if such disability arises from some negligence or misconduct on the part of the member of the Force so far as such disability has some connection and nexus to the nature of the Force. At least, a remote attributability to the service would be the condition precedent to claim benefit of pension under the relevant rules.

11. As per the law settled by Hon'ble Supreme Court of India, in case there is a correlation or even remote connection of the injuries suffered or death occurred with the military service, the benefit of disability pension, in case where injury has been suffered by personnel concerned, or special family pension, in case of the death of such personnel concerned, can be claimed.

12. Further, the same issue again came up for consideration initially before the Tribunal and reached to the Hon'ble Supreme Court of India, wherein the claim was raised on the basis of the injuries suffered in a road accident while the officer was availing casual leave at home. The Tribunal granted the said benefit to the officer concerned and an appeal was preferred, being **Civil Appeal No.122 of 2022, titled as Union of India and others vs. No.2869930A Ex. Hav. Dhanbir Singh, decided on 18.02.2022**, wherein the appeal was dismissed not only on the ground of delay but also on merit as well, which proves that even an injury suffered or death occurred by an army personnel while availing the benefit of casual leave at home, can be attributed to the military service so as to claim the benefit of disability pension or the special family pension as the case may be.

13. Learned counsel for the petitioners-UOI has not been able to dispute the said principle of law settled in the above

mentioned cases by the Hon'ble Supreme Court of India, which covers the claim of the respondent in his favour.

14. Keeping in view the totality of the facts and circumstances, as the injury suffered was while coming back from Unit to his home place, the same has rightly been attributed to the military service.

15. No other argument has been raised by learned counsel for the petitioners.

16. In view of the above, no ground is made out for interference by this Court. Accordingly, the present writ petition is dismissed.

17. Pending application, if any shall also stand disposed of.

**(HARSIMRAN SINGH SETHI)
JUDGE**

**(VIKAS SURI)
JUDGE**

**December 02, 2025
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Whether speaking/reasoned	Yes
Whether Reportable	No