



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

233

CWP-32530-2024

Date of Decision: 17.09.2025

Union of India and others

....Petitioners

Versus

Kulwant Singh Bhikhan and another

....Respondents

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

Present: None for the petitioners.

Ms. Rubi Khokhar, Advocate
for respondent No.1.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 20.10.2023 (Annexure P-1) passed by respondent No.2 – Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as ‘the Tribunal), by which, the respondent No.1 is held entitled to the grant of disability element of disability pension @75% as against 50% for life from the day next to the date of his discharge from service i.e. 01.04.2021 by rounding off the same.

2. The only contention raised by the petitioners in the writ petition is that the disabilities of respondent No.1 has been assessed by the Release Medical Board as neither attributable to the military service nor aggravated by



-: 2 :-

the military service so as to entitle the benefit of disability pension, which has been allowed by the Tribunal in favour of respondent No.1 and that too by rounding off the disability of 50% to 75%.

3. Learned counsel appearing on behalf of respondent No.1 submits that once, respondent No.1 upon joining the service with the armed forces was medically examined and found to be fit, the disabilities which were suffered by him during the service career, are to be attributed to the military service keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316***. Learned counsel for respondent No.1 further submits that as per the settled 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***, the disability is to be rounded off while granting the disability pension and the Tribunal after appreciating all the facts, granted the relief which should be upheld.

4. We have heard learned counsel for respondent No.1 and have gone through the case file with her able assistance.

5. It is a conceded fact that at the time when respondent No.1 was discharged from service i.e. on 31.03.2021, he had rendered 37 years 06 months and 11 days of service with the petitioner-Union of India. Further, it is also a conceded fact that at the time when respondent No.1 joined the armed forces i.e. on 20.09.1983 and was medically examined, and he was not found to be suffering from any disease on the basis of which, respondent No.1 has been granted the benefit of disability pension by the Tribunal. As per the record, at the time of discharge, respondent No.1 was found suffering from



-: 3 :-

“(i) Post Ablativehypothyroidism (Old) 15% for life (ii) Cerebliar Ataxia (likely Spinocerebeliarataxis) 20% and (iii) Primary Hypertension (old) 30% composite 50% and net assessment qualifying for disability pension 50% for life long”.

6. As far as the contention of the petitioners in the writ petition qua the aspect that the medical report of the respondent stipulates that the disability incurred by him is neither attributable nor aggravated by the military service and hence, grant of benefit of disability pension by ignoring the medical report is incorrect, qua the said contention, it shall be noted that as per ***Dharamvir Singh’s case (supra)*** the presumption as per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982, is in favour of an employee concerned, that the disability he has incurred while in service is to be attributed to military service, especially when it has come on record that at time of enrollment the employee concerned was fit and contracted with a disease/disability during service period, which is concededly the situation in present case. Hence, the contention raised by the petitioners stands defeated. 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



-: 4 :-

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 ”

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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.”



-: 5 :-

7. Further, with regard to the grievance of the petitioners qua the rounding off disability pension from 50% to 75%, the 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 with the Military, who had undergone the medical examination at the time of enrollment and was found fit, is subsequently found to be suffering with a disability is entitled to the benefit of disability pension as the presumption would be in favour of such an employee that the disability suffered during the service is attributable to the Military service by rounding off the said percentage of disability, the relevant paragraph of the said judgment is 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



-: 6 :-

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.”*

8. Further, in a recent judgment in **Civil Appeal No.11311 of 2025** titled as ***Union of India and others vs. Reet MP Singh and another***, decided on 01.09.2025, the Hon’ble Supreme Court of India by placing reliance upon ***Ram Avtar’s case (supra)***, has again reiterated that the benefit of rounding off the disability element cannot be denied.

9. Hence, the said proposition of law having been settled by the Hon’ble Supreme Court of India in ***Ram Avtar’s case (supra)*** and ***Reet MP Singh’s case (supra)*** to the effect that percentage of disability is to be rounded off stands unrebutted and when applied in the present case, disability of 50% is to be rounded off to 75% w.e.f. 01.04.2021.

10. Keeping in view the facts and circumstances of the present case as well as the settled principle of law in ***Ram Avtar’s case (supra)***; ***Reet MP Singh’s case (supra)*** and ***Dharamvir Singh’s case (supra)*** once, at the time of selection, the respondent was medically examined and was found fit in all aspects and it was only during the continuation of service for a period of 37 years 16 months and 11 days that respondent No.1 was found suffering from “(i) *Post Ablativehypothyroidism (Old) 15% for life* (ii) *Cerebliar Ataxia (likely Spinocerebeliarataxis) 20% and (iii) Primary Hypertension (old) 30%*



-: 7 :-

composite 50% and net assessment qualifying for disability pension 50% for life long". That being so, the said disease has to be attributed and aggravated by the military service and the unsubstantiated report of medical board cannot take away the right of the respondent to claim the benefit of disability pension @ 75% by rounding it off.

11. Hence, in the absence of any perversity being pointed out in the impugned order dated 20.10.2023 (Annexure P-1) 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.

12. Accordingly, the writ petition is dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 17, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No