



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-32224-2024 (O&M)
Decided on : 18.11.2025

UNION OF INDIA AND OTHERS

...Pitioners

Versus

EX CAPT USHASREE KUMAR AND ANOTHER

. . . Respondents

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

PRESENT: Mr. Karan Kumar Jund, Senior Panel Counsel
for the petitioners-UOI.

Ms. Roopan Atwal, Advocate and
Mr. Rajat Chauhan, Advocate for the respondents.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 02.05.2023 (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 rounding off of the disability element of disability pension to the extent of @ 50% as against 30% w.e.f. 06.03.2003 for life.

2. The only argument raised by learned counsel for the petitioners is that the benefit of rounding off of the disability pension to respondent No. 1 from 30% to 50% by placing reliance upon the judgment of in *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 02.05.2023 (Annexure P-1).

3. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

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4. It is a conceded fact that at the time when respondent No.1 was discharged from service on 05.03.2003 on completion of his terms of engagement under Army Rule 13(3) Item III (i), he had already rendered 15 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. 06.03.1993, 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 bare perusal of the order passed by the Tribunal which states that even the Medical Board has assessed disability of “*PIVD L4-5 L5-S1*” AND “*SPONDLOSISTHESIS OF L5 OVER S1*” @ 30% which has been assessed to be attributable to the army service and the said 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 attributed to the military service, filing of the petition by the Union of India is contrary to the recommendations of the Medical Board itself.

6. 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



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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.”

7. 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 30% is to be rounded off to 50%.

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 ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761*** as well as ***Bijender Singh vs. Union of India and others, 2025 SCC Online SC 895***, has again reiterated that the benefit of rounding off the disability element cannot be denied.

9. Further with regard to the prayer of the petitioners regarding arrears of disability element, it may be noticed that once the admissibility of the benefit of disability pension to respondent No.1 is not being disputed by the petitioners before this Court, the grant of arrears qua disability pension to respondent No. 1 cannot be restricted to a period of three years.

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10 Being a model employer, the Union has to extend the benefit of disability pension for which the disabled person is entitled to, at the time of relieving him/her from the service concerned on the ground of the said disability.

11. Merely, that the employee has not claimed the benefit admissible to him/her immediately, does not devoid than of the same but when it is claimed, the benefit so admissible to an employee has to be given from the date of his/her entitlement so that such disabled employee does not suffer due to the inaction on the part of the Union in not granting him/her the benefit admissible earlier.

12. As per the principle of law settled by Hon'ble Supreme Court of India in case titled as 'Balbir Singh Vs. Union of India and Others Civil Appeal No. 3086 of 2012 decided on 08.04.2016', the benefit of arrears cannot be restricted and the petitioners cannot be allowed to take the benefit of their own wrong. The relevant paragraph of the said judgment is extracted hereinafter:

“The Tribunal was therefore justified in restoring the service element of the pension in favour of the appellant. The question however is whether the arrears could have been restricted to three years only. The Tribunal in our view need not have done so. That is because the appellant had a right to receive service element of the pension in light of Regulation 186 (supra), which right was valuable and ought to have been protected. The fact that the appellant had approached the Tribunal for redress belatedly was in the peculiar circumstances of the case, no reason for the Tribunal to reduce the payment of

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arrears to three years only.”

13. 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)***, ***Reet M.P. Singh’s case (supra)*** as well as in ***Balbir Singh’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 “*PIVD L4-5 L5-S1*” AND “*SPONDLOSISTHESIS OF L5 OVER S1*”, which disability was aggravated to military service as per Medical Board, that being so, claim of respondent No.1 for the benefit of disability pension by rounding off the disability from 30% to 50% has rightly been allowed by the Tribunal.

9. No other argument has been raised.

10. Hence, in the absence of any perversity being pointed out in the impugned order dated 02.05.2023 (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.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

18.11.2025

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Whether speaking/reasoned: ~~Yes/No~~

Whether Reportable: ~~Yes/No~~