

CWP-32574-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236

CWP-32574-2024 (O&M)
Date of Decision :18.11.2025

Union of India and others

...Petitioners

Versus

Ex. Hav. Hawa Singh Sangwan and another

... Respondents

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

Present: Mr. Charanjit Singh Bakshi, Senior Panel Counsel
for the petitioners-UOI.

Mr. Parveen, Advocate for respondent No.1.

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HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present petition, challenge is to the impugned order dated 07.03.2019 (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 consisting of both disability element as well as service element alongwith benefit of rounding off of the disability element from 30% to 50% for life.

2. Learned counsel for the petitioners argues that in the present case, respondent No.1 has only served in the Defence Security Corps (DSC) for a period of 10 years and hence, he was not entitled for the grant of service element of disability pension, but while granting the benefit of disability pension to respondent No.1 the service element has also been added by the Tribunal, which is incorrect. Learned counsel for the

**CWP-32574-2024 (O&M)****-2-**

petitioners further submits that service element of disability pension is equivalent to service pension for which 15 years qualifying service is mandatory and the provisions of Rule 132 of Pension Regulations for the Army 1961. However, in the instant case, respondent No.1 did not opt to count his former service towards DSC service at the time of his re-enrolment. Hence, the respondent No.1 is not entitled to the service element.

3. Learned counsel for the petitioners further argues that even otherwise, when respondent No. 1 was relieved from service, though, it was held by medical board that the disability of “Primary Hypertension” suffered by respondent no.1 is attributable to the military service and the disability of respondent No.1 was assessed at 30% for life but the disability pension has already been given to him, hence, revising of the same by adding service element is incorrect.

4. Learned counsel for the petitioners submits that while passing the impugned order dated 07.03.2019 (Annexure P-1), the Tribunal has ignored the factum that minimum service of 15 years is required for getting the benefit of service pension, which is missing in the present case.

5. Learned counsel for the respondents submits that the petitioners are misreading the “service element” with “service pension” which is entirely different.

6. Learned counsel for the respondents further submits that the disability pension alongwith the “service element” is to be given under Regulations 183 of the Pension Regulation for the Army Act, 1961 which provision has been interpreted more than once not only by this Court but

also by the Hon'ble Supreme Court of India and it has been categorically held that the "service element" has no relation with "service pension" and the disability pension is to be calculated only by taking into consideration the "service element".

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

8. It may be noticed that the Union of India has raised the claim that the officer concerned did not had 15 years service in his credit to get the benefit of service element while fixing the disability pension, but, the said question of law is no longer *res integra* as, the same has already been decided by Hon'ble Supreme Court of India in Civil Appeal No. 4714-4715 of 2012 titled as **Union of India and others versus V. R. Nanukuttan Nair, decided on 07.11.2019** wherein the Hon'ble Supreme Court of India was dealing with the similar service regulations of Navy. The regulation 107 of the Navy (Pension) Regulations, 1964 which was mentioned in the said judgment is the *pari materia* to the service regulations No. 183 of the Pension Regulation for the Army Act, 1961, which is applicable in the present case.

9. After considering the said regulations, the findings which have been recorded by the Hon'ble Supreme Court of India in paragraph No. 19 is as under:-

"19) In view of the principles of interpretation relating to Casus Omissus, we find that a reading of the Regulations does not lead to an inference that the service element should be limited to an individual who has completed minimum 15 years of engagement. Regulation 78 cannot be read into Regulation 105B when no such qualification is provided in Regulation

105B. "Regulation 78

10. Learned counsel for the petitioners has not been able to rebut the said settled principle of law.

11. Not only this, the similar issue was raised by the Union of India in CWP No. 2412 of 2025, titled as " Union of India and others versus No. 763665 Ex Cpl Kishor Chandra Mohanty and another", decided on 29.01.2025 and after imposing the cost of Rs. 25,000/-, the Co-ordinate Bench of this Court, dismissed the said writ petition by recording the findings that despite settled principle of law, the writ petitions are being filed by the Union of India by ignoring the provisions of law.

12. Once again, the Coordinate Bench of this Court while dismissing three writ petitions filed by the Union of India i.e. CWP-1947-2025 on the same cause by recording the findings that the "service element" is being confused with the "service pension", which is incorrect and similar writ petitions were dismissed.

13. Learned counsel for the petitioners has not been able to rebut the said judgments which have been referred herein before according to which even if, an officer has completed less than 15 years in service but was discharged from service on the ground of disability suffered by the officer concerned during the service, which disability was attributable to the military service, the service element has to be taken into account as per the regulations 183 of the 1961 regulations.

14. Further, with regard to the grievance of petitioners qua the benefit of rounding off of disability granted to respondent No.1, 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 and 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 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.

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.”

15. 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 in the present case, the disability of 30%



CWP-32574-2024 (O&M)

-6-

is to be rounded off to 50%.

16. 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)* 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.

17. Keeping in view the totality of the facts and circumstances and as the learned counsel for the petitioners has not been able to prove that the impugned order dated 07.03.2019 (Annexure P/1) is perverse 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.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

November 18, 2025

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Whether speaking/reasoned : Yes

Whether reportable : No