

**CWP-34023-2024 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****255****CWP-34023-2024 (O&M)
Date of Decision :15.09.2025****Union of India and others****..Petitioners****Versus****Lt. Col. Arun Kumar (Retd.) & another****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI****Present: Mr. Charanjit Singh Bakshi, Senior Panel Counsel
(through V.C.) for the petitioners-UOI.****None for the respondents.***** * *****Harsimran Singh Sethi, J. (Oral)**

1. In the present petition, the challenge is to the impugned order dated 21.02.2019 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (for short, 'Tribunal') by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element from 20% to 50% for life on the ground that the same is perverse.

2. Learned counsel for the petitioners places reliance upon the report of medical report of respondent No. 1 to hold that though the disability of "DM Type-II (E-11)", which has been assessed @ 20% has been found in respondent No.1, but the said disability has been held to be not attributable but was only held to be aggravated by the Military service. Hence, the grant of benefit of disability pension by rounding off the



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disability element to respondent No.1 @ 50% as against @ 20% for life by the Tribunal by placing reliance upon the judgment of in ***Civil Appeal No.164-1993 Ex. Sapper Mohinder Singh vs. Union of India and another decided on 15.01.1993*** and ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761*** is incorrect.

3. Learned counsel for the petitioners further argues that keeping in view the judgment of Hon'ble Supreme Court of India in ***Civil Appeal No. 7672 of 2019 titled as Narsingh Versus Union of India***, the orders/decisions of the medical board cannot be overruled in routine without there being any valid justification or the material evidence brought on record. He further contends that as per the judgment, the presumption that a personnel who was found to be fit at the time of enrollment and was further detected with a disability, such a disability cannot be mechanically presumed to be attributed to an aggravated by Military service, which judgment has not been considered by the Tribunal while passing the impugned order dated 21.02.2019.

4. We have heard learned counsel for the petitioners and have gone through the case file with his able assistance.

5. The grievance of the petitioners-UOI is that the respondent No.1 has been given the benefit of disability pension despite there being medical report of respondent No.1 on record where assessment has been made that the disability incurred during the service period is not attributable to but is only held to be aggravated by military service and the benefit of disability pension has been given to respondent No,1 and that even after the assessment states that the disability is of 20% yet the same has been rounded



off to 50%.

6. Learned counsel for the petitioners has not been able to dispute the fact that under the rules governing the grant of the disability pension, either the disability suffered by the officer concerned while in service should be attributed to the military service or should have been aggravated by the military service.

7. In the present case, it is conceded before this Court that the disability on the basis of which the disability pension is being sought by the respondent No.1 has been held to be aggravated by the military service as per the finding recorded by the Medical Board therefore, learned counsel for the petitioners has not been able to dispute the entitlement of the disability pension once the disability suffered is aggravated by the military service. Apart from this, it is to be seen whether the said disability can be attributed to the military service or not.

8. It is conceded fact that at the time when respondent No.1 was discharged from service on 30.04.2016, he had already rendered 33 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. on 08.11.1983 he was medically examined and was found not to be suffering from any such disease. This had been made the basis by the Tribunal while granting benefit to the respondent No.1 by placing reliance upon ***Dharamvir Singh (supra)***. The relevant para Nos.30, 32 and 33 of the judgment in ***Dharamvir Singh's*** case (supra) 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 Disability is not related to mil service”

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.

"Classification of diseases" have been prescribed at Chapter IV of Annexure I; under paragraph 4 post traumatic epilepsy and other mental changes resulting from head injuries have been shown as one of the diseases affected by training, marching, prolonged standing etc. Therefore, the presumption would be that the disability of the appellant bore a casual connection with the service conditions."

9. It should be noted that as per ***Dharamvir Singh's*** case (supra), the entitlement Rules 5 and 9, the presumption is in favour of the army personnel who has suffered disability that same is attributable to and aggravated by military service, and the onus of proof is upon the employer to disprove the same by bringing on record the evidence and substantial medical report which could prove the fact that the disability is neither attributable to nor aggravated by military service, which concededly has not been done by the petitioners hence, the claim of the respondent No.1 is rightly adjudicated by the Tribunal.

10. Further, with regard to the grievance of petitioners qua the



‘rounding off of disability pension’ the same issue has been settled by the Hon’ble Supreme Court of India in ***Union of India and others vs. Ram Avtar***, 2014 SCC Online SC 1761, 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, 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 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 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.”

11. Learned counsel for the petitioners has not been able to dispute



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the said proposition of law having been settled by the Hon'ble Supreme Court of India in ***Dharamvir Singh's*** case (supra) and ***Ram Avtar's*** case (supra).

12. 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.

13. Further, with regard to the argument of the learned counsel for the petitioner that the judgment passed by the Hon'ble Supreme Court of India in **Narsingh's case (supra)** has not been considered by the Tribunal while passing the order impugned, it may be noticed that the judgment passed in **Narsingh's case (supra)** only states that the findings of the medical board should not be overturned in a routine manner. The bare perusal of the records as place don page No.57 of the petition shows that the disability DM Type-II (E-II) was aggravated by military service. Nothing evident has been brought on record by the petitioners as to why the disease suffered by the respondent cannot be attributed to the military service or aggravated by the military service especially when respondent does not suffer the same at the time of recruitment in Army, hence, judgment in **Narsingh's case (supra)** cannot be brought in operation in the present case.

14. Keeping in view the facts and circumstance of the present case as well as the settled principle of law settled in ***Dharamvir Singh's case***

(supra), *Ram Avtar’s case (supra)* as well as *Meet M.P. Singh’s case (supra)* once at the time of enrolment, respondent No. 1 was medically examined and was found to be fit in all respects and it was only during his service period that respondent No.1 was found to be suffering from “DM Type-II (E-II)” That being so, the said disability has to be attributed by the military service and the unsubstantiated report of Medical Board cannot take away the right of respondent No.1 to claim the benefit of disability pension by rounding off the disability from @ 20% to @ 50% as per the settled principle of law settled in *Ram Avtar’s case (supra)* and *Meet M.P. Singh’s case (supra)*.

15. Hence, in the absence of any perversity being pointed out in the impugned order dated 21.02.2019 (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.

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

(HARSIMRAN SINGH SETHI)

JUDGE

September 15, 2025

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(VIKAS SURI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No