



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

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**CWP-94-2025 (O&M)**

**Date of Decision : 15.10.2025**

**UNION OF INDIA AND OTHERS**

**...PETITIONERS**

**Versus**

**PREM DEVI AND ANOTHER**

**... RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI  
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Ms. Geeta Singhwal, Advocate  
for the petitioners.

Ms. Roopan Atwal, Advocate for  
Mr. Navdeep Singh, Advocate  
for respondent No.1.

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**HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present petition the challenge is to the order dated 01.04.2022 (Annexure P-1) passed by the Armed Forces Tribunal, Regional Bench, Chandigarh at Chandimandir, by which benefit of ordinary family pension has been granted to respondent No.1.

2. The arguments which has been raised by the learned counsel appearing on behalf of the petitioners is that the husband of the respondent No.1 namely, Jeet Singh was enrolled in the army on 06.04.1970 and was discharged on 20.08.1977 on the ground of "Service no longer required" as there were red entries in the record of husband of respondent No.1. Learned counsel for the petitioners submits that the decision was taken keeping in

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view the red entries which were credited in the record of the husband of the respondent No.1 while he was performing the duties assigned to him and therefore, even if, within a period of six years, the husband of respondent No.1 suffered from a disability assessed at more than 20%, the benefit of disability pension could not have been granted. Learned counsel submits that the disability assessed was also for a period of two years, but no action was taken by the husband of the respondent No.1 so as to claim the benefit of disability pension, and after his death, no occasion arises for the respondent to claim the benefit of family pension, which benefit has been granted by the Tribunal after a lapse of more than 45 years.

3. Keeping in view the notice of motion issued, the respondent No.1 has appeared. Learned counsel appearing on behalf of the respondent No.1 argues that even if, the husband of the respondent No.1 was discharged on the ground of red entries, but once it has been established that at the time of discharge he was suffering from the disability of “NEUROSIS 300” and the disability was assessed at 20% for two years, the benefit of disability pension should have been granted, however, the same was not granted by the department, even though husband of respondent No.1 was eligible for the same.

4. Learned counsel for the respondent further submits that the issue qua delay has already been addressed by the Tribunal as, the benefit of family pension has only been granted to respondent No.1 from passing of impugned order by the Tribunal and the arrears have been restricted to a period of three years from the date of approaching the Tribunal and



therefore, the ground of delay which has been taken by the appellant to challenge the order is incorrect and may kindly be rejected.

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

6. The first question which arises for determination is that whether an officer, who has been discharged on the ground of red entries, is entitled to the benefit of disability pension, in case, at the time of discharge such officer was suffering from a disability. The said issue has already been considered by the Hon'ble Supreme Court in ***Union of India Vs. A.K. Bakshi, AIR 1996 SC 1368*** and the relevant paragraph 18 of the said judgment reads as “under :

*“18. We have already set out Rule 15(2)(g)(ii). We may now take note of Rule 18 which provides as under :*

*“18. Dismissal or removal of a person subject to the Act other than an officer.- Save in a case where a person subject to the Act other than an officer is dismissed or removed from the service on the ground of conduct which had led to his conviction by a criminal court or a court martial, no such person shall be dismissed or removed under sub-section (1) or sub-section (3) of section 20 unless he has been informed of the particulars of the cause of action against him and allowed reasonable time to state in writing any reasons he may have to urge against his dismissal or removal from the service.*

*(2) Notwithstanding anything contained in sub-rule (1), if in the opinion of the officer competent to order the dismissal or removal of such person, it is not expedient or reasonably practicable to comply with the provisions of sub-rule (1), he may after certifying to that effect, order the dismissal or*



removal.

(3) *All cases of dismissal or removal without complying with the procedure prescribed in sub-rule (1) shall, without delay, be reported to the Central Government.”*

*A perusal of the said Rule indicates that it deals with persons other than officers subject to the Act. Sub-rule (1) provides that no such person shall be dismissed or removed under sub-section (1) or sub-section (3) of section 20 unless he has been informed of the particulars of the cause of action against him and allowed reasonable time to state in writing any reasons he may have to urge against his dismissal or removal from the service. This requirement his dismissal or removal from the service. This requirement is dispensed with in cases where a person is dismissed or removed from service on ground of conduct which has led to his conviction by a criminal court or court martial. In other words, except in cases where the dismissal or removal from service is on the ground of conduct which has led to his conviction by a criminal court or court martial, if a person subject to the Act is dismissed or removed from the service he must be informed about the particulars of the cause of action against him and must be afforded an opportunity to make his submissions against the proposed dismissal or removal. Sub-rule (2) dispenses with the requirement of issuing notice in cases where an officer competent to order the dismissal or removal is of the opinion that it is not expedient or reasonably practicable to comply with the provisions of sub-rule (1) and is such cases he may after certifying to that effect order the dismissal or removal. Sub-rule (3) lays down that all cases of dismissal or removal without complying with the provisions of sub-rule (1) must be reported to the Central Government without delay.*

*According to the High Court, the provisions of Rule 18 are*



*attracted in cases where a person is discharged on the basis of the Policy for Discharge for the reason that the action for discharge has been taken on the basis of six punishments which have been imposed on him. We find it difficult to endorse this view of the High Court. The punishments referred to in the Policy for Discharge are punishments that have been imposed for misconduct under the relevant provisions of the Act and the Rules. The Policy for Discharge envisages that in cases where an airman has been awarded such punishments six times, he is to be treated as a habitual offender and action for his discharge from service should be taken against him under Rule 15(2)(g)(ii) of the Rules. This action for discharge is not by way of punishment for the misconducts for which he has already been punished. The basic idea underlying the Policy for Discharge is that recurring nature of punishments for misconduct imposed on an airman renders him unsuitable for further retention in the Air Force. Suitability for retention in the Air Force has to be determined on the basis of record of service. The punishments that have been imposed earlier being part of the record of service have to be taken into consideration for the purpose of deciding whether such person is suitable for retention in the Air Force. The discharge in such circumstances is, therefore, discharge falling under Rule 15(2)(g)(ii) and it cannot be held to be termination of service by way of punishment for misconduct falling under Rule 18 of the Rules. We are, therefore, unable to agree with the High Court that termination of services on the basis of the Policy for Discharge does not constitute discharge under Rule 15(2)(g)(ii) but amounts to removal for misconduct under Rule 18 of the Rules.”*

A bare perusal of the above would show that, as per the Hon'ble Supreme

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treated as a punishment or stigma so as to deny the benefit of disability pension admissible to personnel concerned, in case, at the time of such discharge, the soldier concerned was entitled to the benefit of disability pension.

7. In order to determine whether, the disability pension was admissible to the soldier concerned or not, it may be noticed that at the time Jeet Singh was enrolled in the Army on 06.04.1970 he was medically examined with no disease, much less "NEUROSIS 300". However, at the time of his discharge on 20.08.1977, he was found to be suffering from the said disease, which was assessed at 20% for a period of two years, though the same was not held to be attributable or aggravated by the Military service. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Dharamvir Singh Vs. Union of India 2013(7) SCC 316*** case, any army personnel, who at the time of the recruitment was found to be fit, and later at the time of the discharge was found to be suffering from any ailment, such an ailment has to be treated as aggravated or attributable to the Military Service as per Rule 5 and 9 of Entitlement Rules for Casualty Pensionary Awards, 1982, an army personnel is entitled for benefit of presumption in his favour. 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*

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*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*

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*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."*

8. It should be noted that as per judgment in *Dharamvir Singh's* case (supra) the entitlement rules 5 & 9, the presumption is in favour of the army personnel who has suffered disability that the same is attributable to and aggravated by military service, the onus of proof is upon employer to disprove the same by bringing on record the evidence and substantiated the medical report which could prove the fact that disability is neither attributable to nor aggravated by military service, which concededly has not





adjudicated by Tribunal.

9. Keeping in view the said principle of law, the disability of “NEUROSIS 300” has to be treated as attributable to the Military Service so as to entitle husband of respondent No.1 for grant of benefit of disability pension.

10. Although, the husband of the respondent never claimed for grant of benefit of disability pension, yet it was the duty of the petitioner to grant the same in according with the settled principle of law; thus the benefit of disability pension was admissible to the husband of the respondent No.1.

11. Keeping in view the aforementioned, grant of disability pension in favour of the husband of the respondent No.1 by the Tribunal is perfectly valid and legal keeping in view the fact and the settled principle of law by the Hon'ble Supreme Court as noticed hereinabove, which has gone unrebutted at the hands of the petitioners.

12. Further, with regard to the delay at the hands of respondent No.1 in claiming the benefit, which is being taken as ground to challenge the impugned order whereby benefit was granted to respondent No.1, it may be noticed that the claim with regard to pension is a recurring cause of action and the same cannot be dismissed merely on the ground of delay.

13. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.4100 of 2022 titled as Shri. M.L. Patil (Dead) through LRs vs The State of Goa and another, decided on 20.05.2022***, the claim for the pension/family pension cannot be denied

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on the ground of delay as the same is a recurring cause of action, hence, the benefit of family pension granted in favour of the respondent No.1 after the death of the soldier concerned, is perfectly valid. Further the arrears have already been restricted for a period of three years from the date of filing of the original application, which even otherwise take care of the delay. The relevant paragraphs 3 and 4 of the said judgment are as under:-

*“3. Having heard Shri Rahul Gupta, learned counsel appearing on behalf of the appellant and Shri Ravindra Lokhande, learned counsel appearing on behalf of the respondent – State of Goa and considering the fact that even by the impugned judgment and order, the High Court has held that action of the State Government in requiring the original petitioners to retire at the age of 58 years or not permitting them to continue in their service upto the age of 60 years is illegal and null and void, we are of the view that the High Court has erred in observing that the appellant will not be entitled to any arrears of pension and the pension at the revised rates will become payable only from 1st January, 2020. As such, the High Court may be right and/or justified in denying any salary for the period of two extra years to the writ petitioners if they would have continued in service, on the ground of delay. However, as far as the pension is concerned, it is a continuous cause of action. There is no justification at all for denying the arrears of pension as if they would have been retired/superannuated at the age of 60 years. There is no justification at all by the High Court to deny the pension at the revised rates and payable only from 1 st January, 2020. Under the circumstances, the impugned judgment and order passed by the High Court is required to be modified to the aforesaid extent.*

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4. *In view of the above and for the reasons stated above, the present Appeal Succeeds in Part. The impugned judgment and order passed by the High Court to the extent of denying any arrears of pension and holding that the appellant shall be entitled to the pension at the revised rates only from 1st January, 2020 is hereby quashed and set aside. It is held and ordered that the appellant –original writ petitioner shall be entitled to pension at the revised rates from the date he attains the age of 60 years. Now the arrears accordingly shall be paid to the appellant within a period of four weeks from today. Present Appeal is Partly Allowed to the aforesaid extent. In the facts of the case, there shall be no order as to costs ”*

14. No other argument has been raised.

15. Hence, in the absence of any perversity being pointed out in the impugned order dated 01.04.2022 (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**

**(DEEPAK MANCHANDA)**  
**JUDGE**

**15.10.2025**

*Satyawan*

Whether speaking/reasoned : Yes

Whether reportable : No