



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

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CWP No.1960 of 2025 (O&M)

Date of Decision: 08.04.2026

UNION OF INDIA AND OTHERS

.....Petitioners

Versus

ARMED FORCES TRIBUNAL CHANDIGARH BENCH
CHANDIMANDIR THROUGH ITS SECRETARY AND ANOTHER

.....Respondents

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

Present: Mr. Ramesh Chand Sharma, Advocate,
for the petitioners-UOI.

Service upon respondent No.1 is dispensed with being Tribunal
vide order dated 30.09.2025.

Mr. Abhimanyu Sharma, Advocate and
Mr. A.K. Ranolia, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 24.09.2021 (Annexure P-1) passed by respondent No.1-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal') by which, the disability pension @ 50% as against 20% for life w.e.f. 25.06.2014 has been awarded in favour of respondent No.2 by placing reliance upon the judgment of the Hon'ble Supreme Court of India in ***Sukhvinder Singh Versus Union of India and others, Civil Appeal No.5605 of 2010, decided on 25.06.2014.***

2. Learned counsel for the petitioners argues that the judgment in ***Sukhvinder Singh*** (supra) is not applicable in the facts and circumstances of



the present case wherein, the disability assessed was less than 20% at the time of “completion of the service” by respondent No.2. Hence, the same cannot be treated as above 20% for grant of benefit of disability pension and the judgment in ***Sukhvinder Singh*** (supra) has been wrongly interpreted while granting the said benefit to respondent No.2.

3. Learned counsel for respondent No.2 on the other hand submits that though, it is a matter of fact that on completion of 11 years of service, respondent No.2 was relieved from service but as extension in service was not granted, and the same was due to the disability, which respondent No.2 incurred with and hence, the same has to be treated as 20% in view of the judgment in ***Sukhvinder Singh*** (supra). Hence, the writ petition filed by the petitioners may kindly be dismissed.

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

5. It may be noticed that as per the settled principle of law and the rules governing the issue for the grant of disability pension, the minimum percentage of disability required for the grant of disability pension is 20% which aspect is also dealt with by Regulation governing service. Same is reproduced for perusal.

Para 53 of Pension Regulations for the Army Part-I (2008) is as under:

“53. (a) An individual released/retired/discharged on completion of term of engagement or on completion of service limits or on attaining the prescribed age (irrespective of his period of engagement), if found suffering from a disability attributable to or aggravated by military service and so recorded by Release Medical Board, may be granted disability element in addition to service pension or service



gratuity from the date of retirement/discharge, if the accepted degree of disability is assessed at 20 percent or more.

(b) The disability element for 100% disability shall be at the rate laid down in Regulation 98 (b) below. For disabilities less than 100% but not less than 20%, the above rates shall be proportionately reduced. Provisions contained in Regulation 98(c) shall not be applicable for computing disability element.”

6. Any personnel, whose disability has been assessed as less than 20%, he/she cannot be granted the benefit of disability pension unless and until, the total period of service, which such personnel had to render is curtailed by the State on the ground of low medical category. The said is the principle of law settled by the Hon’ble Supreme Court of India in ***Sukhvinder Singh*** (supra). Relevant paras of said judgment read as under:

“8 Paragraph 183 of the Pension Regulations for the Army 1961, (Part-I) stipulates as under:-

“183. The disability pension consists of two elements viz. Service element and disability element which shall be assessed as under:

(1) Service element

(2) Disability element

.....

In case where an individual is invalidated out of service before completion of his prescribed engagement/service limit on account of disability which is attributable to or aggravated by military service and is assessed below 20 percent, he will be granted an award equal to service element of disability pension determined in the manner given in Regulation 183 Pension Regulations for the Army Part-I(1961). ”



9. We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount to granting a premium to the Recruitment Medical Board for their own negligence. Secondly, the morale of the Armed Forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined. Thirdly, there appears to be no provisions authorising the discharge or invaliding out of service where the disability is below twenty per cent and seems to us to be logically so. Fourthly, wherever a member of the Armed Forces is invalided out of service, it perforce has to be assumed that his disability was found to be above twenty per cent. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty per cent disability pension.”

7. The jurisprudence behind this has to be understood, which is that State cannot at one hand deny personnel to serve because of a disability incurred by him, and on the other hand, after invalidating him from service, deny him the benefit of disability pension too on the ground that same is below 20%.

8. In the present case, the terms of the engagement of respondent No.2 came to an end on 30.06.2012, on which date, the disability incurred by him was assessed at less than 20%. Hence, any such disability which is less than 20%, on the date when the terms of the officer come to an end, the same cannot be treated as 20% for the grant of disability pension. At the time



when the term of service comes to an end, only a disability assessed above 20%, will be taken into consideration for grant of disability pension. Hence, in the facts and circumstances of the present case, the operation of the judgment in *Sukhvinder Singh* (supra) by the Tribunal is perverse to the facts of the present case. Hence, the impugned order dated 24.09.2021 (Annexure P-1) passed by the Tribunal cannot be sustained and is accordingly set aside.

- 9. The writ petition is allowed in the aforesaid terms.
- 10. Miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

08.04.2026
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Whether Speaking/Reasoned :	Yes
Whether Reportable :	No