



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

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CWP No.4118 of 2025 (O&M)

Date of Decision: 08.04.2026

UNION OF INDIA AND OTHERS

.....Petitioners

Versus

NO.1050375L EX DFR. BIR SINGH AND ANOTHER

.....Respondents

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

Present: Mr. Ramesh Chand Sharma, Senior Panel Counsel,
for the petitioners-UOI.

Mr. Arshit Goel, Advocate
for respondent No.1.

Service upon respondent No.2 is dispensed with being Tribunal
vide order dated 30.09.2025.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 04.10.2019 (Annexure P-1) passed by respondent No.1-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal') by which, the benefit of disability pension has been granted in favour of respondent No.1.

2. Learned counsel for the petitioners-UOI submits that the disability of "Pulmonary Tuberculosis Old V-67" was detected to have been incurred by respondent No.1 and due to the said disease, respondent No.1 was invalidated out of service on 30.11.1993 and at that time disability assessed was @ 40% for a period of two years and that too attributable to the military service but, the said recommendation of the medical board was not



accepted by the PCDA (P), Allahabad due to which, respondent No.1 was again assessed by the Re-Survey Medical Board (RSMB) after a period of 09 years of invalidation from service in the year 2002 wherein the disability was assessed between 15% to 19%. Hence, once the disability got reduced to less than 20%, which is the minimum percentage of disability required for grant of benefit of disability pension, the grant of said benefit by the Tribunal by placing reliance upon the judgment of 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***, is incorrect. Hence, the order passed by the Tribunal is liable to set aside.

3. Learned counsel for respondent No.1 submits that once at the time of invalidation, the disability suffered was assessed @ 40% and that too as attributable to military service, merely that the said recommendation was not accepted by PCDA (P), Allahabad, which is an administrative authority, same cannot be construed as a ground not to enforce the said recommendation of the medical board given in the year 1993. He further submits that even if for sake of arguments, it is assumed that said recommendation is not to be accepted, the decision taken by the Tribunal by accepting the recommendation of RSMB and granting benefit of disability pension by placing reliance upon ***Sukhvinder Singh*** (supra) is correct, hence, the writ petition 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 once the disease suffered by respondent No.1 was "Pulmonary Tuberculosis Old V-67", and at the time of invalidation in November, 1993, as per the medical board, the disability was assessed @ 40% and aggravated by the military service, non-acceptance of



the same by the PCDA (P), Allahabad, is incorrect. It is a settled principle of law that the medical board's recommendation has to be given preference and same is to be accepted, rather than giving preference to recommendation of an administrative authority and accepting the same so as to adjudicate upon claim raised with regard to grant of disability pension.

6. Once, at the time of invalidation from service, the disability assessed by Medical Board was more than 20% and as attributable to the military service, respondent No.1 was entitled for the grant of the disability pension then and there.

7. Even if, after a period of 09 years, the disability of "Pulmonary Tuberculosis Old V-67" assessed by RSMB was reduced to less than 20%, the same cannot come in the way of respondent No.1 to deny him the benefit of disability pension as, any disability which has led to invalidation from service, with the required degree of disability for grant of disability element, will not dis-entitle respondent No.1 for grant of disability pension subsequently upon reduction of such disability to less than 20%. Any such reduction in disability assessed at less than 20% which disability has led to invalidation from service, will be covered by the decision in ***Sukhvinder Singh*** (supra) so as to hold that the same is to be treated as 20% for continuance of the grant of the disability pension. The Union cannot at one hand invalidation a personnel from service due to low medical category and on the other hand deny him of disability pension by taking the ground that same was below the required mark of 20%. Hence, in the facts and circumstances of the present case where the disability at the time of invalidation was assessed at more than 20% and as attributable to military service, the grant of the disability pension at the time of his invalidation, is correct. Keeping in view the above, there is no perversity in the order passed



by the Tribunal especially when at the time of discharge, Medical Board found disability more than 20% and that too attributed to military service. Hence, no ground is made for any interference. The present petition is dismissed accordingly.

8. 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