



CWP-7916-2025 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-7916-2025 (O&M)
Date of Decision :13.05.2026

Union of India and others

...Petitioner

Versus

Bharam Kaur and another

...Respondents

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

Present: Ms. Geeta Singhwal, Sr. Panel counsel for petitioner-UOI.

Mr. Akash Kundan, Advocate and Mr. Arshit Goel, Advocate
for respondent No.1.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 03.03.2020 (Annexure P/1) passed by the respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal) by which, the benefit of special family pension has been granted in favour of respondent No.1 in respect of the services rendered by her late husband namely, Nand Karan.

2. Learned counsel for the petitioners submits that though, it is a conceded fact that the husband of respondent No.1 was suffering from throat cancer, which disease led to his death, but what needs consideration of this Court is that whether or not, such disease can be attributed to or aggravated by military service keeping in view the nature of disease, which aspect has not been appreciated by the Tribunal while passing the impugned order



while grating the benefit of special family pension in favour of respondent No.1 and therefore, the grant of said benefit by holding the said disease as attributable to or aggravated by military service, is incorrect as development of disease of Cancer is a result of genetic condition, which cannot be attributed to military service and hence, the impugned order passed by the Tribunal granting the benefit of special family pension in favour of the respondent No.1 is liable to be set aside.

3. Learned counsel for the respondent No.1 submits that at the time of recruitment of husband of the respondent No.1 in Army, he was medically examined and was not found to be suffering from any disease which ultimately led to his death while in service and even as per the settled principle of law, any disease which leads to death of an army personnel while in service, which disease was not found to be existing at the time of his/her recruitment, the same is to be treated as attributable to or aggravated by military service.

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

5. In order to adjudicate the issue at hand, law governing over said aspect needs consideration. As per the settled principle of law settled by the Hon'ble Supreme Court of India in the case of ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316***, where an army personnel is found to be fit at the time of enrolment, and has later on found to be contracted with a disease, same is presumed to have been aggravated by or attributable to military service. 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."

6. In the present case, the husband of respondent No.1 was not found to be suffering from the disease of throat cancer at the time of his recruitment and hence, once it is a conceded position that while serving UOI, the husband of the respondent No.1 died due to the said disease, the same has to be treated to be as attributable to or aggravated by military service so as to grant the benefit of special family pension in favour of respondent No.1.

7. Qua the argument of the learned counsel for the petitioners that the said disease of throat cancer is a result of genetic condition of a



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particular person, it may be noticed that even if, the same is accepted for the sake of argument still, it has be kept in mind as to what activated those genes which were dormant at the time of recruitment. There are certain aggravating factors, keeping in view the service condition of an army personnel rendered in various difficult areas all over the India coupled with stress and strain. The food and the timings of food is very much material factor for aggravation of such kind of disease, which spreads very fast in case, due care is not taken hence, in the present case, the aggravating factors which led to the death of the husband of the respondent No.1 due to throat cancer and that too while in service, cannot be ignored so as to deny the grant of benefit of special family pension to the respondent No.1.

9. Keeping in view the above made observations, the benefit so granted by the Tribunal in favour of respondent No.1 is correct.

10. No other argument has been raised.

11. Learned counsel for the petitioners has not been able to prove that the impugned order passed by the learned Tribunal is perverse either on facts or law hence, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

12. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

May 13, 2026

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Whether speaking/reasoned : Yes
Whether reportable : No