

through the case file with his able assistance.

4. As far the contention of learned counsel for the petitioners that benefit of disability element of disability pension cannot be granted in case percentage of same is assessed at less than 20%. It may be noticed that as per the settled principle of law settled in ***Civil Appeal No.5605 of 2010 decided on 25.06.2014 titled Sukhvinder Singh vs. Union of India and others***, the disability, even if, assessed at less than 20%, which is the situation in present case leads to the circumstances where personnel concerned cannot discharge the duties assigned to him/her and has to be relieved from duty, such a disability is to be treated at a minimum of 20% so as to grant the benefit of disability pension to personnel concerned. The relevant paragraph of the judgment is as under:

“11. 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 appear to be no provisions authorizing the discharge of invaliding out of service where the disability is below 20 percent and seems to us to be logically so.

Fourthly, whenever 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 20%.

Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty percent disability pension.”

5. On being asked as to whether respondent No.1 though was discharged at his own request, could have rendered service even after being found to be suffering from the said disability. Learned counsel for the petitioners has not been able to rebut the said fact that the respondent was unable to continue in service due to ailment suffered. Once, the respondent

No.1 has been relieved from service, though upon his own request upon suffering from the said disability, the element of disability pension to respondent No.1 will cause prejudice to him, which cannot be allowed.

6. Further, with regard to the grievance of petitioners qua the benefit of rounding off of disability granted to respondent No.1, 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 an Armed Forces personnel is entitled to be granted the benefit of rounding off with regard to disability pension, irrespective of the fact that he was invalidated out of service, or retired on attaining the age of superannuation or on completion of his tenure of his engagement, if found to be suffering from some disability which is attributable or aggravated by 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.”

9. Learned counsel for the petitioners has not been able to dispute the said proposition of law having been settled by the Hon'ble Supreme Court of India in ***Ram Avtar's case (supra)*** to the effect that percentage of disability is to be rounded off and when applied in present case, the disability of 20% is therefore, to be rounded off to 50%.

10. Further, in the 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 ***Ram Avtar's case (supra)***, has again reiterated that the benefit of rounding off the disability element, cannot be denied.

11. Keeping in view the law laid down in ***Sukhwinder Singh's case (supra)***, ***Ram Avtar's case (supra)*** and ***Reet MP Singh's case (supra)***, the benefit of disability element of respondent No.1, cannot be denied.

12. No other argument has been raised.

13. Hence, in the absence of any perversity being pointed out in the impugned order dated 23.07.2024 (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.

14. Accordingly, the writ petition is dismissed.

15. Pending application(s), if any, shall stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

06-04-2026
Sapna Goyal

(DEEPAK MANCHANDA)
JUDGE

NOTE: Whether speaking/ reasoned: YES
Whether reportable: NO