



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

110

CWP-7981-2026 (O&M)

Decided on :17.03.2026

UNION OF INDIA AND OTHERS

. .Petitioners

Versus

KULDEEP AND ANOTHER

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

PRESENT: Mr. Naveen Gupta, Advocate
for the petitioners.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 30.07.2024 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh, (for short, 'the Tribunal') by which, the benefit of disability pension has been allowed in favour of respondent No.1 that too by rounding off of the disability element of disability pension @ 50%, which was initially assessed at less than 20% (10%) for life.
2. Learned counsel for the petitioners submits that respondent No.1 had joined the service on 14.04.1994 and was discharged from service on 30.04.2020 and since the disability suffered by late husband of respondent No. 1 '*Right Lateral Medullary Syndrome*' was assessed at less than 20% (06%-10%) which is the minimum threshold and condition precedent for the grant of benefit of disability pension, the Tribunal exceeded its jurisdiction while granting the said relief to respondent No.1.
3. Learned counsel for the petitioners further submits that even though the disability which was assessed at less than 20 % which disability was the basis for discharge from service, is to be assessed at 20 % for

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purpose of grant of disability pension, but the said benefit has to be granted keeping in mind the assessment made by medical board, which assessment in present case concedes that the said disability was assessed as neither attributable to nor aggravated by military service, hence, the grant of benefit of disability pension to respondent No. 1 is incorrect.

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

5. Qua the argument of learned counsel for petitioners that assessment has been made that said disability is neither attributable to nor aggravated by the military service by military service so as to deny the benefit of disability pension to respondent No. 1 it shall be noted that said issue has already been settled by Hon'ble Supreme Court of India in **Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316.**

6. It should be noted that as per judgment in **Dharamvir Singh's case (supra)** it has been held that in a case where army personnel is found to be fit at the time of enrolment, and has later been found to be contracted with a disease, same is to be presumed to have been aggravated by or attributable to military service, as per Rules 5 & 9 of the Entitlement Rules, 1982. 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

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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, nonapplication 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*



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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."

7. As for the contention of learned counsel for the petitioners that benefit 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

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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.”

8. Even otherwise, as per the judgment of **Col Rajiv Kacker versus Union of India, OA No. 802 of 2021 decided on 21.03.2022**, wherein after considering the rules governing the service, it was observed that any disability pertaining to hearing loss cannot be assessed at less than 20%, the argument raised by the learned counsel that minimum of 20% disability is to be there to grant the benefit of disability pension, stands nullified.
9. On being asked that whether, with the disability from respondent No.1 suffered, the personnel concerned could have continued in service and performed his duties without any hindrance, learned counsel for the petitioners has not been able to rebut that with the said disability, the officer could not have continued in service. Once, it was established that the officer concerned could not continue in service due to the said disability, the only option was that to discharge him from the service. Since, the reason for



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being relieved from service is the disability incurred during the service period, the claim of the petitioner that the benefit of disability pension could not be granted to respondent No.1, cannot be accepted.

10. Further, as per the principle of law settled by the Hon'ble Supreme Court of India in *Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761*, any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was found fit in all respects, subsequently upon suffering a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be that the disability suffered is attributable to 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.”

11. 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%.



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12. 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)* as well as *Bijender Singh vs. Union of India and others, 2025 SCC Online SC 895*, has again reiterated that the benefit of rounding off the disability element cannot be denied.

14. No other argument has been raised.

15. Hence, in the absence of any perversity being pointed out in the impugned order dated 30.07.2024 (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 in the facts and circumstances of the present case and the writ petition is accordingly dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

17.03.2026

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Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: ~~Yes~~/No