



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

116**CWP-7669-2026****Date of Decision: 13.03.2026****Union of India and others****....Petitioners****Versus****Balwan Singh and another****...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Rohit Verma, Senior Panel Counsel
for the petitioners.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 25.01.2023 (Annexure P-1) passed by respondent No.2 – Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as ‘the Tribunal), by which, respondent No.1 has been granted the benefit of disability element w.e.f. 01.10.2002 to 30.09.2012.

2. The only argument raised by learned counsel for the petitioners is that though in the Release Medical Board held on 08.03.2002 the disability, i.e. “Ischaemic Heart Disease”, incurred by respondent No.1 has been assessed @20% for ten years and aggravated by military service, however, the PCDA (P) Allahabad has rejected the claim for the grant of disability element of disability pension on the ground that the said injury is neither attributable to nor aggravated by the military service.



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3. We have heard learned counsel for the petitioners and have gone through the case file with his able assistance.

4. It may be noticed that respondent No.1 joined the Armed forces on 30.09.1979 and was invalided out by the competent authority on the basis of the report given by the Invalidating Medical Board on 30.09.2002. However, respondent No.1 was not granted the benefit of disability element of disability pension on the ground that the said disability is neither attributable to nor aggravated by the military service which was the view taken by PCDA (P) Allahabad on ground of which benefit of disability pension has been disallowed.

5. As for ascertaining whether benefit of disability pension is to be allowed and in what conditions same is to be allowed, the said aspect has already been dealt with by the Hon'ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316***, any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was not found to be suffering from any such disease at that time on the basis of which, he/she has been discharged from service, such an employee is entitled for the benefit of presumption in his/her favour as per Rule 5 and 9 of 'Entitlement Rules for Causality Pensionary Awards, 1982' that the said disability has been suffered by the employee during his service career and is, thus, entitled for the benefit of disability pension. The relevant paragraphs of the said judgment 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



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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 ”

31. XXXX XXXX XXXX XXXX

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 "Genrealised 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*



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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.”

6. Learned counsel for the petitioners has not been able to rebut that in that case respondent No.1 is held entitled for the grant of disability pension keeping in view the disability suffered, which disability is to be treated as attributable to and aggravated by the military service.

7. Moreover, any administrative authority cannot supersede the opinion of Medical Board, which finding has been recorded by the Tribunal correctly.

8. Keeping in view the facts and circumstance of the present case as well as the settled principle of law settled in ***Dharamvir Singh's case (supra)***, respondent No.1 has rightly been held to be entitled for the grant of disability element w.e.f. 01.10.2002 to 30.09.2012.

9. No other argument has been raised.

10. Hence, in the absence of any perversity being pointed out in the impugned order dated 25.01.2023 (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.

11. Accordingly, the writ petition is dismissed.



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12. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

March 13, 2026
Varinder

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No