

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

CWP-9217-2026

Date of Decision :27.03.2026

Union of India and others

...Petitioners

Versus

Vimla Devi and another

...Respondents

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

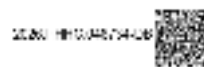
Present: Ms. Shalini Atri, Sr. Panel Counsel for petitioners-UOI.

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Harsimran Singh Sethi, J. (Oral)

1. In the present writ petition, the challenge is to the impugned order dated 09.05.2023 (Annexure P-3) passed by the respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal') by which, the special family pension has been granted in favour of the respondent No.1 (wife of late LNK Braham Dutt) w.e.f. 01.08.1993 for life

2. Learned counsel for the petitioners argues that though, respondent No.1 is entitled to the ordinary family pension, as her late husband, Braham Dutt, was in active service upto the date of his death i.e. 01.08.1993, but the grant of the special family pension by treating his ailment as attributable to the military service, is not correct and therefore, submitted that the said order dated 09.05.2023 (Annexure P-3) passed by the Tribunal may kindly be set aside.



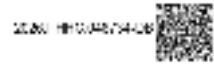
3. We have heard learned counsel for the petitioners and have gone through the record with her able assistance.

4. As per the facts which have been mentioned in the order passed by the Tribunal, it is clear that the husband of the respondent No.1 was enrolled in the Army on 02.08.1984 in medically fit condition. While working with the petitioners, husband of respondent No.1 suffered an ailment of *subarachnoid hamorrhage (OPED)* on 15.06.1993 and died on 01.08.1993.

5. Once, it is clear that the husband of the respondent No.1 was referred to the Army Hospital, Delhi Cantt and cause of death was the result of disability of vascular aneurysm of congenital origin which means that he was unwell and even as per the hospital record, he was being treated for the said disease, which ultimately led to his death, the said death has to be held attributable to the military service particularly when nothing has come on record to indicate that the husband of respondent No.1 was suffering from such ailment at the time of his appointment to the service, for which he was referred to the Army Hospital Delhi Cantt by the petitioners themselves for medical examination.

6. As per the settled principle of law settled in ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316***. The relevant para Nos.30, 32 and 33 of the said judgment are as under:-

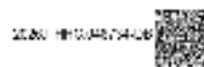
30. In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by



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



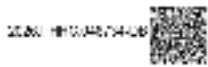
and mental condition at the time of entering the service and deterioration in his health has taken place due to service.

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."

7. The argument of the learned counsel for the petitioners is that nothing has come on record with regard to the cause of death. Merely that the cause of death has not come on record but it is a conceded fact that prior to the death, the husband of respondent No.1 was under treatment for an ailment which is attributable to and aggravated by the military service and especially when the death occurred shortly after the detection of the ailment. Therefore, the Tribunal's order of the grant of the special family pension as per Rule 213 of Pension Regulation for Army, 1961 by treating that the husband of respondent No.1 was suffering from an ailment while in service and which led to his death and same was attributed to and aggravated by the Military service, needs no interference at the hands of this Court.

8. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.



9. Accordingly, the writ petition is dismissed.9
10. Civil miscellaneous application pending if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

March 27, 2026

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Whether speaking/reasoned :Yes
Whether reportable : No