



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

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CWP-8752-2026

Date of Decision: 23.03.2026

Union of India and others

....Petitioners

Versus

Ex. Havildar Rakesh Kumar and another

....Respondents

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

Present: Mr. Arihant Goyal, Advocate
for the petitioners.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 27.11.2019 (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 held entitled to disability pension by rounding off disability from less than 20% (1-5%) to 50% w.e.f. 01.01.2018 on the ground that the same is perverse.

2. Learned counsel for the petitioners submits that the disability of “*Recurrent Anterior Uveitis (RE)*” incurred by respondent No.1 was assessed at less than 20% hence, as the disability was assessed as less than 20% which percentage is a condition precedent for the grant of benefit of disability pension, the Tribunal exceeded its jurisdiction while granting the relief of disability pension by rounding off the disability element @ 50% as against less than 20% (1-5%).



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

4. It is a conceded case that the disability of “*Recurrent Anterior Uveitis (RE)*” which was suffered by respondent No.1 while being in service has already been held to be aggravated by the military service by the Medical Board. As per the settled principle of law settled in ***Civil Appeal No.5605 of 2010*** titled ***Sukhvinder Singh vs. Union of India and others***, decided on 25.06.2014 even if the disability is assessed at less than 20%, but the officer cannot discharge the duties due to said disability, such an officer has to be relieved from service and for fulfilment of said purpose, disability is to be treated minimum of 20% so as to grant the benefit of disability pension and said disability of 20% has rightly been rounded off by the Tribunal to 50% keeping in view the judgment of the Hon’ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***.

5. On being asked as to whether, with the disability suffered, respondent No.1 could have continued in service and performed the duties without any hindrance, learned counsel for the petitioners has not been able to rebut that with the said disability, respondent No.1 could not have continued in service. Once, the officer concerned could not have continued in service, the only option available was either respondent No.1 should be invalidated out or should get relieved from service. Once, the reason for being relieved from service is the injury, which respondent No.1 suffered during active service, the contention of the petitioners that disability pension could not be granted to respondent No.1 cannot be accepted especially when the disability is



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aggravated by the military service.

6. As per the judgment in **Sukhvinder Singh's case (supra)**, the injury even if the same is assessed at less than 20%, but for the purpose of the grant of pension, the same has to be treated as minimum of 20%. The relevant paragraph of the judgment is as under:

“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 authorising 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.”

7. 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 **Ram Avtar's case (supra)**, 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,



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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



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pensioners before them, if any, who are getting or are entitled to the disability pension.”

8. Further, in a 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.

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)*** and ***Reet MP Singh’s case (supra)*** to the effect that percentage of disability to be rounded off and when applied in the present case disability of 20% to be rounded off to 50% w.e.f. 01.01.2018.

10. Keeping in view the facts and circumstance of the present case as well as the settled principle of law settled in ***Ram Avtar’s case (supra)*** as well as ***Reet MP Singh’s case (supra)***, the respondent has rightly been held to be entitled to disability pension by rounding off the disability element from 20% to 50%.

11. No other argument has been raised.

12. Keeping in view the totality of the circumstances, the order dated 27.11.2019 (Annexure P-1) passed by the Tribunal, keeping in view the facts and circumstances of the present case coupled with the settled principle of law, has not been shown to be perverse in any manner.

13. No ground is made out for any interference by this Court in the



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facts and circumstances of the present case.

- 14. Accordingly, the writ petition is dismissed.
- 15. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

March 23, 2026
Varinder

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No