

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

113

CWP-9746-2026

DATE OF DECISION: 02.04.2026

Union of India and others

...Petitioners

Versus

Smt Baljit Kaur and another

... Respondents

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

Present: Mr. Ashish Chaudhary, Advocate for the petitioners.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the challenge is to the order dated 08.05.2023 (Annexure P-1) passed by the Armed Force Tribunal in OA No.280 of 2016, by which, the benefit of special family pension has been given to the respondent No.1.

2. Learned counsel for the petitioners argues that in the present case the death of the husband of the respondent No.1 occurred while availing the leave due to "Cardio Respiratory Arrest", and such death cannot be said to be attributed to the military service and therefore, the grant of the benefit of the special family pension as directed by the Tribunal to be granted is incorrect.

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

4. It may be noticed that the husband of the respondent No.1 was enrolled in the Army on 08.02.1999. At the time of enrollment, he was medically examined and he was found fit in all respect to perform his duties required. After rendering 13 years of service, while on leave, the husband of the respondent No.1 died on 12.07.2012. The said death was ascertained to be due to "Cardio Respiratory Arrest". The said ailment is only due to the stress and strains



attributable to the job profile, which the husband of the respondent No.1 was performing for the period of 9 years.

5. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316***, any officer, who was enrolled in a fit medical condition but suffers any ailment during the service, the same has to be attributed to the military service. The relevant paragraph of the judgment is reproduced hereunder:-

“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.”

6. In the present case, though the death occurred while the husband of the respondent No.1 was on leave but, it may be noticed that the stress which he suffered while on duty was the cause and therefore, merely that the death occurred while he was on leave will not give a right to the petitioners to contend that the death is not attributable to the military service. Further, as per Regulation 213, which stipulate when benefit of special family pension is to be granted states the said benefit is to be granted in case death of a personnel is because of a disease which is attributable to military service, which aspect has been duly proved as per judgment in *Dharamvir Singh (supra)*. Even otherwise, the rules governing the service, which have been reproduced in the order impugned, specifically state that a disease which has led to death on discharge of a person, will be presumed to have been arisen during the course of military service unless same is rebutted by medical report containing reasons, which is not done in the present case.

7. Hence, the grant of the benefit of the special family pension to respondent No.1 by treating the death of the husband of the respondent No.1 as attributable to the military service is perfectly valid and reasoned and is in consonance with the settled principle of law noticed hereinabove and rules governing the service.

8. No ground is made out for interference by this Court.

9. The present writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

02.04.2026
sapna adhikari

Whether speaking/reasoned : Yes
Whether reportable : No



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Whether speaking/reasoned	:	Yes
Whether reportable	:	No