



130 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10138-2026

Date of Decision : 06.04.2026

UNION OF INDIA AND OTHERS

.....Petitioners

VERSUS

RAM AVTAR AND ANOTHER

.....Respondents

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

Present: Mr. Ravi Sodhi, Senior Panel Counsel with
Mr. Arshad Ali, Central Government Counsel
for the petitioners-Union of India.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 02.02.2023 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh, (hereinafter referred to as ‘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 assessed at less than 20%(6%-10%) for life.

2. Learned counsel for the petitioners submits that the respondent No.1 joined the service on 18.04.1979 and was invalidated out from service on 03.02.1995 in low medical category BEE (permanent) due to the disease “*COSTO CONDRITIS (LT)*” and the said disability was assessed as 20% for life by the Medical Board vide proceedings dated 11.06.2000 and the

same was assessed as attributable to military service and thereafter, the disability was re-assessed as less than 20% (6%-10%) for life vide re-assessment board held on 02.03.2006 and since the disability was not assessed upto 20%, which is a condition precedent for the grant of disability pension, the Tribunal exceeded its jurisdiction while granting the said relief to respondent No.1.

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

4. It is a conceded fact that the disability of “***COSTO CONDRITIS (LT)***”, which was suffered by respondent No.1 while being in service, has already been held to be attributable to the military service by the Medical Board. Even otherwise, 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 suffered by any army personnel even if the same is assessed at less than 20% but the same leads to such 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 minimum of 20% so as to grant the benefit of disability pension to such a personnel concerned and said disability of 20% has rightly been rounded off 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 whether, with the disability from which respondent No.1 suffered and on the basis of which he got invalidated out from service, the personnel concerned could have continued in service performing the duties without any hindrance, learned counsel for the

petitioners has not been able to rebut the said aspect. Once, the officer concerned could not continue in service due to the aforementioned disability, the only option available was that either he should be invalidated out of service or the officer should get relieved from service. Once, the reason for being invalidated out from service is the disability incurred during the service period which disability has been assessed as attributable to military service and later on, when the disability was re-assessed as “NIL”, the claim of the petitioners that the benefit of disability pension could not be granted to respondent No.1, cannot be accepted since once a personnel is invalidated out from service due to disability which was held to be attributable to military service, he cannot be denied the benefit subsequently on the pretext that now, the disability has come to be “NIL” as the same would amount to injustice to such personnel.

6. It should be noted that the present issue has already been dealt with by the Hon’ble Supreme Court of India in ***Sukhvinder Singh’s case (supra)*** according to which, any injury, which led to being invalidated out from service of an army personnel is assessed at less than 20%, for the purpose of the grant of disability pension, the same has to be treated as a minimum of 20%. The relevant paragraph of the judgment is as under:

9. 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 appears to be no provisions authorising the discharge or invaliding out of service where the disability is below twenty per cent and seems to us to be logically so. Fourthly, wherever 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 twenty per cent. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty per cent disability pension.”

7. Further, as per the settled principle of law laid by the Hon’ble Supreme Court of India in **Ram Avtar’s case (supra)**, if disability element of disability pension is assessed @ 20%, the same is to be rounded off to 50%, which has not been rebutted by the learned counsel for the petitioners.

8. Keeping in view the totality of the circumstances, the impugned order dated 02.02.2023 (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. Hence, no ground is made out for any interference by this Court in the facts and circumstances of the present case and the present petition is accordingly dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

06-04-2026
Sapna Goyal

(DEEPAK MANCHANDA)
JUDGE

NOTE: Whether speaking/ reasoned: YES
Whether reportable: NO