

CWP-11431-2026

1

107

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

CWP-11431-2026

Date of decision: 17.04.2026

UNION OF INDIA AND OTHERS

.....Petitioners

VERSUS

EX HAV RAM DHARI

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Mr. N.K. Verma, Sr. Panel Counsel
for the petitioners.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, challenge is to the impugned order dated 15.01.2024 (Annexure P-4) passed by learned Tribunal by which, respondent has been granted the benefit of disability pension @ 50 % as against 20% for life.

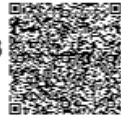
2. Learned counsel for the petitioners places reliance upon the report of medical board proceedings held at Military Hospital, Kasauli vide AFMSF-15 dated 08.01.1994 to contend that though for the disability of Recurrent Sigmoid Volvulus (opted) 558, respondent was downgraded to low medical category CEE (Temporary) w.e.f 08.01.1994 but, the said disability has later been assessed by the Release Medical



Board held on 30.06.1995, whereby the same was assessed @ 20% for two years and regarded as 'neither attributable to nor aggravated by the Military service' and hence, the grant of benefit of disability pension to respondent by placing reliance upon the judgment of Tribunal in **Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316**, is arbitrary and illegal. Learned counsel for the petitioners further submits that even the benefit of rounding off of disability pension @ 50% against 20 % for life has been wrongly granted to respondent and in terms of **Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761**, as he was discharged from service at his own request on compassionate ground.

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

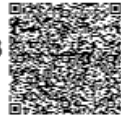
4. It is a conceded fact that at the time when respondent was discharged from service on 31.07.1995, he had already rendered more than 18 years of service with the petitioners-Union of India. It is also a conceded fact that at the time when respondent joined the armed forces, he was medically examined and was found not to be suffering from any such disease and was found to be medically fit but during continuance of his service, he was found to be suffering from disability of Recurrent Sigmoid Volvulus (opted) 558. Though the respondent was held entitled to disability pension for two years from the date of release from 01.08.1995 to 31.12.1995 @ 20% and @ 50% as against 20% from 01.01.1996 to 31.07.1997 vide order dated 18.02.2019 in OA No.1072 of 2015 but even then no amount was paid to the respondent on account of the disability pension. Later RSMB re-assessed the disability of



respondent to 20% for life vide assessment dated 25.06.2019. The said fact had been recorded by the Tribunal in the impugned order dated 15.01.2024 (Annexure P-4) while granting benefit to the respondent by placing reliance upon the judgment of in **Dharamvir Singh 's case (Supra) and Ram Avtar's case (Supra)**

5. As for the grievance raised by petitioners with regard to grant of benefit of disability pension to respondent, it should be noted that as per judgment in **Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316**, in a case where army personnel is found to be fit at the time of enrolment, and has later been found to be contracted a disease, same is presumed to have been contracted with during the time such personnel was rendering service in military and as such same is to be attributed to military service or be regarded as having been aggravated by military service. And the said presumption in favour of army personnel emerges from Rule 5 and 9 of the "Entitlement Rules for Causality Pensionary Awards, 1982", which gives the benefit of presumption of such in favour of army personnel. The relevant para Nos.30, 32 and 33 of the judgment in **Dharamvir Singh's case (supra)** 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, nonapplication 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”

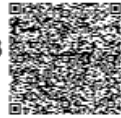
32. *In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance 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 "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 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. Further, with regard to the grievance of petitioners qua the benefit of rounding off of disability granted to respondent, the same issue



has been settled by the Hon'ble Supreme Court of India in **Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761**, 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, 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 pensioners before them, if any, who are getting or are entitled to the disability pension.”*



7. 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)** to the effect that percentage of disability is to be rounded off and in the present case, the disability is rounded off to 50% for life.

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)** as well as **Bijender Singh vs. Union of India and others, 2025 SCC Online SC 895**, has again reiterated that the benefit of rounding off the disability pension cannot be denied.

9. 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)**, **Ram Avtar's case (supra)** as well as **Reet MP Singh case (supra)**, once at the time of enrolment, respondent was medically examined and was found to be fit in all aspects and it was only during his service period that respondent was found to be suffering from disability of Recurrent Sigmoid Volvulus (opted) 558 that being so, the said disability has to be attributed to the military service and the unsubstantiated report of Medical Board cannot take away the right of respondent to claim the benefit of disability pension.

10. No further arguments raised.

11. Hence, in the absence of any perversity being pointed out in the impugned order dated 15.01.2024 (Annexure P-4) 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 and **the writ petition is accordingly dismissed.**

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

(HARSIMRAN SINGH SETHI)
JUDGE

17.04.2026
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No