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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11106-2026

Date of Decision : 10.04.2026

UNION OF INDIA AND OTHERS

.....Petitioners

VERSUS

MAM RAJ AND ANOTHER

.....Respondent

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

Present: Mr. Anil Kumar Sharma, Advocate for the petitioners.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 21.04.2022 (Annexure P-1) passed by respondent No.2 – Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as ‘the Tribunal), in OA No.1193 of 2020, by which, respondent No.1 has been held entitled to benefit of disability element along with the benefit of rounding off of disability pension from (15%-19%) deemed 20% to 50% for life w.e.f 25.06.2014, on the ground that the same is perverse.

2. Learned counsel for the petitioners submits that the respondent No.1 joined the service on 31.03.1961 and was discharged from service on 30.03.1976 in Low Medical Category of CEE (Permanent) for the disability of “**LOW BACKACHE**”, and the said disability was assessed less than 20% (15- 19%) by the Medical Board and the same was assessed as attributable to military service and therefore, as 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 Learned counsel for the petitioners submits that the said benefit has been granted keeping in view 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, even if, assessed at less than 20%, which is the situation in present case leads to the 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 at a minimum of 20% so as to grant the benefit of disability pension to personnel concerned.

4. Learned counsel for the petitioners submits that the said benefit has been wrongly granted in favour of respondent No.1.

5. We have heard learned counsel for the petitioners and have gone through the records of the present case with his able assistance.

6. It is a conceded fact that the disability in Low Medical Category of CEE (Permanent) for ***“LOW BACKACHE”***, 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. 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*.

7. Learned counsel for the petitioners further submits that since the Re-Survey Medical Board was conducted on various occasions and in the last Re-Survey Medical Board held on 26.09.2005, the disability was adjudged less than 20% i.e. (15%-19%) upon which, the disability of the respondent No.1 has been reduced, which benefit of disability pension could not be continued.

8. It may be noticed that in case, a soldier is discharged from service on a Low Medical Category of CEE (Permanent) for the disability of **“LOW BACKACHE”** and even upon reduction in the disability pension to less than 20%, he/she is not reinstated in service, the disability pension cannot be stopped on this count.

9. 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)* and as per the judgment in *Sukhvinder Singh's case (supra)*, any injury, which discharge 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.”

10. It may be noticed that if a disability results in discharge, even if it is less than 20%, the said disability is to be deemed as 20%; on the same analogy, even if the disability is reduced to less than 20% after discharge, in case the personnel is not reinstated in service, the disability has to be presumed to be 20% so as to continue with disability pension.

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

12. Keeping in view the totality of the circumstances, the impugned order dated 21.04.2022 (Annexure P-1) in OA No.1193 of 2020, 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.

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

(HARSIMRAN SINGH SETHI)
JUDGE

10-04-2026
Sapna Goyal

(DEEPAK MANCHANDA)
JUDGE

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