

CWP-11797-2026

Date of Decision : 20.04.2026

UNION OF INDIA AND OTHERS

.....Petitioners

VERSUS

SUKHJINDER AND ANOTHER

.....Respondents

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

Present: Mr. Sushant Kareer, Senior Panel Counsel for the petitioners.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 06.12.2023 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh, (hereinafter referred to as 'the Tribunal') in OA No. 1367 of 2022, by which, the claim of the respondent No.1 for the grant of disability element of disability pension @ 40% for life and further rounding off to 50% w.e.f. 01.10.2021, has been wrongly allowed.

2. Learned counsel for the petitioners places reliance upon the report of medical examination of the respondent to contend that though the disability of "***MODERATE DEPRESSIVE EPISODE (F-10.2)***", has been found to be existing in respondent, the said disability was assessed by the Medical Board @ 40% but "Nil" for life and the same was assessed as to be 'neither attributable to nor aggravated by the Military Service' and hence, the grant of benefit of disability pension to the respondent by placing reliance upon the judgment of the Hon'ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316*** and ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, has been wrongly allowed by the Tribunal.

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

4. It may be noticed that respondent No.1 joined the Armed forces on 27.09.2004 and was invalidated out on 30.09.2021 from the Army Service on being placed in the Low Medical Category S-2 (Permanent) due to disability of “**MODERATE DEPRESSIVE EPISODE (F-10.2)**”, after rendering service of more than 17 years. The Medical Board, was initially held on 06.01.2021, which assessed the disability as neither attributable to nor aggravated by the military service.

5. As per the principle settled by Hon’ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316***, any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was not found to be suffering from any such disease at that time on the basis of which, he/she has been discharged from service, such an employee is entitled for the benefit of presumption in his/her favour as per Rule 5 and 9 of ‘Entitlement Rules for Casualty Pensionary Awards, 1982’ that the said disability has been suffered by the employee during his service career and is, thus, entitled for the benefit of disability pension. The relevant paragraphs of the said judgment 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, 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 ”

31. XXXX XXXX XXXX XXXX

32. In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board.”

6. Learned counsel for the petitioners has not been able to rebut that keeping in view the aforementioned settled principle of law, respondent No.1 is to be held entitled for the grant of disability pension treating the disability of “**MODERATE DEPRESSIVE EPISODE (F-10.2)**”, as attributable to and aggravated by the military service.

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 ***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.”

8. 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 of the disability element from 40% to 50% in the present case.

9. 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.

10. Keeping in view the facts and circumstances of the present case as well as the settled principle of law settled in ***Dharamvir Singh’s case (supra)***, ***Ram Avtar’s case (supra)*** and ***Reet MP Singh’s case (supra)***, respondent No.1 has rightly been held to be entitled to disability pension by rounding off the disability element from 40% to 50%.

11. No other argument has been raised.

12. Hence, in the absence of any perversity being pointed out in the impugned order dated 06.12.2023 (Annexure P-1) in the OA No.1367 of 2022, 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.**

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

(HARSIMRAN SINGH SETHI)
JUDGE

20-04-2026
Sapna Goyal

(DEEPAK MANCHANDA)
JUDGE

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