



CWP-14476-2024 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(233) CWP-14476-2024 (O&M)
Date of Decision : May 14, 2026

Union of India and others .. Petitioners

Versus

Ex. GNR Krishan Chand and another .. Respondents

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

Present: Mr. Dharam Chand Mittal, Senior Panel Counsel,
for the petitioners.

Mr. Sumit Sharma, Advocate, for respondent No.1.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Present writ petition has been filed challenging the order dated 05.03.2019 (Annexure P-6) passed by respondent No.2- Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal') by which, respondent No.1 was held entitled to service element of disability pension from the date of his discharge.

2. Learned counsel for the petitioners places reliance upon the medical examination report of respondent No. 1 to contend that though the disability of '*Fracture Capitellum Lt Humerus (N-824)*' has been found in respondent No.1, but he has been discharged from service on 13.10.1969 at his own request on extreme compassionate grounds before fulfilling the conditions of enrolment under item III (iv) of Rule 13 (3) of Army Rules, 1954. Hence, grant of benefit of service element of disability pension w.e.f. 13.10.1969 by placing reliance upon rules/regulations governing the service



is incorrect and the facts of the present case have not been appreciated in correct perspective by the Tribunal while passing the impugned order dated 05.03.2019 (Annexure P-6).

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

4. It is a conceded fact that at the time when respondent No.1 was discharged from service on 13.10.1969 at his own request on compassionate grounds, he had already rendered approximately more than 04 years of service with the petitioners-Union of India. It is also a conceded fact that at the time when respondent No. 1 joined the armed forces i.e. on 19.06.1965, he was medically examined and was not found suffering from any such disease.

5. The issue which has to be dealt with in the present case is that whether in a case where percentage of disability has not been mentioned, and discharge from service is at own request of the personnel concerned, whereby such personnel is found to be in low medical category, can benefit of service element of disability pension be granted to such personnel especially when the qualifying service of 15 years has not been completed by the personnel concerned.

6. The first argument of the learned counsel for the petitioners qua the non-mention of the percentage of disability of respondent No.1 in his medical examination report cannot be accepted since once, the disability of '*Fracture Capitellum Lt Humerus (N-824)*' was clearly mentioned and the personnel was placed in Low Medical Category (CEE) at the time of his discharge, there has to be some percentage of disability even if below 20%, which was found in respondent No.1 and especially when the same is



assessed as attributable to military service. Once, disability is assumed to be below 20%, the same is to be treated as 20% as per the judgment in ***Civil Appeal No.5605 of 2010 titled as Sukhvinder Singh vs. Union of India and others, decided on 25.06.2014***, whereby, it has been observed that the injury, which led to being invalidated from service is assessed at less than 20%, then 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:

“11. 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 appear to be no provisions authorizing the discharge of invaliding out of service where the disability is below 20 percent and seems to us to be logically so.

Fourthly, whenever a member of the Armed Forces is invalidated out of service, it perforce has to be assumed that his disability was found to be above 20%.

Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would



attract the grant of fifty percent disability pension.”

7. The further argument of the learned counsel for the petitioners is that qualifying service of 15 years has not been completed by respondent No.1 for the grant of service element. It is a settled principle of law that service element is released proportionate to the length of service and there is no minimum qualifying service requirement for service element w.e.f. 01.01.1973 and same has also been observed by the Hon'ble Supreme Court of India in **Civil Appeal No.4714 of 2012 titled as Union of India vs. V.R Nanukuttan Nair, decided on 07.11.2019.**

8. Furthermore, once disability is settled @ 20%, the same is to be rounded off to 50% keeping in view the settled principle of law settled by Hon'ble Supreme Court of India in **Ram Avtar, 2014 SCC Online SC 1761**, whereby, 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.”*

9. Even in the recent judgment of the Hon’ble Supreme Court of India passed in ***Civil Appeal No.11311 of 2025 decided on 01.09.2025 titled as Union of India and others vs. Reet MP Singh and another***, the grant of benefit of rounding off the disability as per ***Ram Avtar’s case (supra)*** has again been upheld, which fact has gone un-rebutted at the hands of the petitioners.

10. Keeping in view the facts and circumstances of the present case as well as settled principle of law settled in ***Sukhvinder Singh’s case (supra)***, ***Ram Avtar’s case (supra)*** and ***Reet MP Singh’s case (supra)***, respondent No.1 is also held entitled for the benefit of rounding off of the disability from 20% 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 05.03.2019 (Annexure P-6) 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.



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

(HARSIMRAN SINGH SETHI)
JUDGE

May 14, 2026
harsha

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No