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

(108)

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Date of Decision : May 27, 2026

Union of India and others

.. Petitioners

Versus

Smt. Kamlesh and another

.. Respondents

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

Present: Mr. S.K. Sharma, Senior Panel Counsel, for the petitioners.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the impugned order dated 04.02.2019 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh, by which, the respondent No. 1 (widow of Dfr Vijay Kumar) has been held entitled for the life time arrears of disability pension of her late husband for the period starting from 01.02.2008 to 19.03.2013 by holding the disability suffered by husband of respondent No.1 as attributable to military service and further she has also been held entitled for the benefit of Special Family Pension from the next date of the death of her husband i.e. 20.03.2013 .

2. Learned counsel for the petitioners argues that the grant of the aforesaid benefits by the Tribunal is incorrect as, though the disability i.e. '*Cerebro Vascular Accident Left MCA Territory*' suffered by the late husband of the respondent No. 1 was assessed @ 40% for life but the same was declared neither attributable to nor aggravated by the military service and therefore, the grant of disability pension and subsequently the benefit of special family pension to the wife of the deceased is incorrect.



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

4. It may be noticed that once, the soldier who was recruited in the year 1982 in a fit health position and the disability suffered by him was detected in 21 years, 01 month and 02 days of service which he had rendered in the Indian Army, the same has to be attributable to the military service as per the law settled by Hon'ble Supreme Court of India in **Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316** therefore, the officer who was discharged from the service on 27.12.1993 but unfortunately died on 20.03.2013 is entitled for the disability pension and the wife of the officer is entitled for the special Family pension which has rightly been granted by the Tribunal while passing the impugned order dated 04.02.2019 (Annexure P-1).

5. It is not disputed fact that the late husband of respondent no. 1 prior to being invalidated out on 01.02.2008 had rendered more than 20 years of service. Further nothing has been brought on record that while recruiting the husband of respondent no. 1 in the military service, he was suffering from any such disability of 'Cerebro Vascular Accident Left MCA Territory'. Further the disability was assessed at 40 % for life.

6. It should be noted that as per judgment in **Dharamvir Singh's case (supra)** in a case where army personnel is found to be fit at the time of enrolment, and has later found to be contracted with a disease, same is presumed to have been aggravated by or attributable to Military service. 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 "Generalised 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."*

7. The Tribunal has rightly held husband of respondent No.1 to be entitled for grant of benefit of disability pension to the deceased for the period starting from 01.12.2008 till his death 19.03.2013 and said issue is squarely covered by the judgment passed in **Civil Appeal Nos. 6820-6824 of 2018 titled as Union of India through Secretary and others vs. SGT Girish Kumar and others, decided on 12.02.2026** and as the husband of respondent No.1 died due to the disability suffered by him, which has been assessed as attributable to military service and that too within a period of 10 years from date of his invalidment, the grant of special family pension to respondent No.1 by the Tribunal is perfectly valid and legal. It may be noticed that the disability suffered by the husband of the respondent No.1 was assessed 40% for life and has been considered as attributable to military

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service, which has been taken into account while grant of the said relief.

8. No other arguments have been raised.

9. Keeping in view the totality of the circumstances, the impugned order dated 04.02.2019 (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.

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

(HARSIMRAN SINGH SETHI)
JUDGE

May 27, 2026
harsha

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No