

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2478-2024 (O&M)

Decided on 30.01.2026

Dhoop Singh

... Petitioner

VS.

Union of India & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Neeraj Kumar, Advocate for the petitioner

Mr. Prajwal Chauhan, Central Govt. Counsel

Sandeep Moudgil, J.

(1). The present writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking issuance of a writ in the nature of mandamus directing the respondents to grant disability and revised pension as per 6th Pay Commission and GPAIS dues pending with the respondents with disability element of disability pension w.e.f. 01.01.2009 for life and benefits of rounding off the disability element while seeking compensation for not releasing the disability and revised pension and GPAIS along with consequential benefits as per Rules.

(2). Learned counsel for the petitioner submits that the petitioner joined CRPF as Constable and after his induction in service, he was allowed to undergo basic CRPF training as a recruit after being examined to be medically and physically fit at the time of his enrolment in service. He further submits that the petitioner underwent the initial rigorous training phase of "full of stress and strain" before being granted 30 days' leave, during which on 16.02.2008 he suffered sudden leg pain leading to admission at GB Pant Hospital, diagnosis of dry gangrene, and as such, he was referred to PGIMS Rohtak which resulted in

amputation of left thigh on 27.02.2008 and was ultimately discharged on 02.03.2008 as per medical documents (Annexures P1 to P3).

(3). It is argued that Release Medical Board (RMB) dated 27.08.2008 (Annexure P3) assessed 80% permanent disability for life, however, such a disability has been held to be not attributable to or aggravated by service. It is further averred that the RMB has not given any reason that the disease could not have been detected on medical examination prior to acceptance for service and as such, non-consideration of the petitioner's claim for disability pension/GPAIS is against the Rule 9 and Appendix 'B' of Entitlement Rules for Casualty Pensionary Awards, 2002, thereby offending settled law that fitness at entry followed by invalidment entitles disability pension even for brief service, as has been held by the Supreme Court in **Indian Army Benevolent Fund v. Union of India (2005) 6 SCC 66.**

(4). On the other hand, Mr. Prajwal Chauhan, Central Govt. Counsel appearing on behalf of the respondents has filed reply dated 06.08.2024 wherein it has been averred that the ailment dry gangrene leading to amputation of left leg of the petitioner on 27.02.2008 had surfaced during his 30-day earned leave period w.e.f. 13.02.2008 to 13.03.2008 while posted at 96 Bn CRPF, Signal Platoon of 4 Signal Bn. He submits that a Court of Inquiry was ordered on 22.10.2008 and as per its findings dated 16.02.2009 by Commandant, 4th Signal Bn, it has emerged that the petitioner sought treatment at his own at PGIMS Rohtak which is near to his hometown after having admitted initially at GB Pant Hospital, Delhi and as such, there is no attributable service liability or disability in action on the part of the respondents.

(5). He further urged that the incidents occurring during leave, preclude GPAIS admissibility under Chapter-11 of CRPF Booklet on Welfare Schemes as nobody except the petitioner is responsible for his amputation of his left leg inasmuch as he had availed 120 days' commuted leave for treatment/rest and after his surgery, he sought voluntary retirement on 08.07.2008 which the respondents accepted w.e.f. 01.11.2008 and all eligible retiral benefits were paid to him as per rules. He relied upon Rule 38 of CCS Pension Rules, 1972, "if any part of the body of a govt. employee is amputated due to an incident occurring during the discharge of govt. duty, he will be eligible for disability/invalid pension", but the petitioner never invalidated or discharged from service and as such, his claim for disability pension/GPAIS is against rules and thus cannot be accepted.

(6). Heard learned counsel for the parties.

(7). That the petitioner was initially appointed in the force on 30.09.1975 as Constable (General Duty). He successfully completed ROG Course and was thereafter re-mustered as Naik/Radio Operator on 13.04.1983. Subsequently, he was placed in the rank of Head Constable/Radio Operator with effect from 10.10.1997. During his posting with 96 Bn, CRPF, he proceeded on 30 days' earned leave w.e.f. 13.02.2008 to 13.03.2008 and was diagnosed with dry gangrene in his left leg. In the wake of medical exigency, he sought treatment at G.B. Pant Hospital, Delhi and was thereafter admitted to PGIMS, Rohtak, where his left leg was amputated just below the thigh on 27.02.2008. He was due to superannuate on 31.03.2010. In the Court of Inquiry, it was recorded that the petitioner, on his own, got himself admitted to PGIMS, Rohtak, near his hometown, where his left leg was amputated by the

treating doctors and as such, the reasons leading to amputation of his leg is attributable to an incidence of service.

(8). This Court is seized of the fact that petitioner is a long-serving member of a disciplined force who joined in the year 1975 and later on during service suffered dry gangrene leading to amputation of his left leg in February 2008, i.e. barely two years before his scheduled retirement, rendering him permanently disabled. This is not a case of minor illness but of catastrophic, career-ending disability. It is well settled that where disability arises during service, a presumption of attributability or service connection should ordinarily operate in favour of the employee, to be displaced only by cogent medical and factual reasons, and that welfare schemes must be construed benevolently.

(9). The respondents have harped upon Rule 38 of the CCS Pension Rules, 1972 to contend that the petitioner was never invalidated or discharged from service rather he himself applied for voluntary retirement w.e.f. 01.01.2009 and as such, invalid pension would not be applicable in the case of the petitioner, the amputation was not a result of any incident occurring during the discharge of govt. duty. It would be fruitful to refer to Rule 38 of the CCS Pension Rules, 1972 which read as under:-

“38. Invalid Pension

(1) The case of a Government servant acquiring a disability, where the provisions of section 20 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016) are applicable, shall be governed by the provisions of the said section:

Provided that such Government servant shall produce a disability certificate from the competent authority as prescribed under the Rights of Persons with Disabilities Rules, 2017.

(2) If a Government servant, in a case where the provisions of section 20 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016) are not applicable, retires from service on account of any bodily or mental infirmity which permanently incapacitates him for the service, he may be granted invalid pension in accordance with rule 49:

Provided that a Government servant who retires from service on account of any bodily or mental infirmity which permanently incapacitates him for the service before completing qualifying service of ten years, may also be granted invalid pension in accordance with sub-rule (2) of rule 49 subject to the conditions that the Government servant—

*(a) has been examined by the appropriate medical authority either before his appointment or thereafter; and
(b) fulfils all other conditions mentioned in this rule for grant of invalid pension.”*

(10). As can be seen that Rule 38 contemplates that where a Government servant, during service, suffers a bodily or mental infirmity that permanently incapacitates him for further duty and is so certified by competent medical authority is entitled for invalid pension. In the present case, the petitioner, a CRPF Head Constable/Radio Operator, developed dry gangrene during the currency of service, resulting in amputation of his left leg in February 2008 and permanent disability barely two years before his scheduled superannuation. This situation harmonizes the basic idea behind Rule 38 that when a government servant becomes permanently disabled during service so that he can no longer continue, he is to be given disability or invalid pension instead of being treated as a normal superannuation case. This shows that service law is designed to protect employees who suffer such serious incapacity

while still in service, by giving them special disability-linked retirement benefits.

(11). That apart, Rule 38 of the 1972 Rules does not draw any distinction based on whether the disability manifested on duty or during authorised leave rather its focuses on disability having been arisen *while in service* and permanent incapacity which is duly certified by the medical authority. The respondents cannot simply say that, because the petitioner was on leave and went to a civil hospital, he is automatically disqualified. For disability purposes, the law does not treat authorised leave as if the person is outside service, so “disability in action/attributable to duty” ought to cover such a case.

(12). Likewise with the coming into force of the Rights of Persons with Disabilities Act, 2016 (in short, the RPwD Act), the normative framework has been significantly strengthened inasmuch as it does not merely provide for grant of pensionary benefits to disabled person but also casts a positive duty on every Government establishment, including the CRPF, to ensure equality, non-discrimination and reasonable accommodation for employees who acquire disability during service, and to frame and implement social-security measures, including disability pension and allied financial support. Section 20 of RPwD Act which deals with non-discrimination in employment thus read as under:-

“20. (1) No Government establishment shall discriminate against any person with disability in any matter relating to employment: Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

— Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.”

(13). In the case in hand, the petitioner, who suffered amputation of his leg while still in service, is a “person with disability” and the CRPF is a “Government establishment”, so their relationship is governed by the RPwD Act, 2016. Section 3 of the Act requires that persons with disabilities be treated with equality, dignity and non-discrimination, and permits differential treatment only where it is of proportionate means for achieving a legitimate aim. Section 20 of the RPwD Act further obligates the Government establishments to provide reasonable accommodation and an enabling environment, which in practice means they cannot simply discard employees to their disadvantage who acquire disability, but must deal with their service and financial consequences in a disability-sensitive way.

(14). Tested against this standard, the CRPF's position that the petitioner's permanent incapacity is non-attributable to service, and that he is wholly outside the welfare/GPAIS scheme, merely because the underlying disease manifested while he was on sanctioned leave and under treatment in a civil hospital, amounts to an exclusion based on the fortuitous time and place of onset rather than any rational, disability related distinction. It has the effect of denying to the petitioner, who is permanently disabled, the very protection which would be available to his counter-part whose illness might have surfaced within unit lines, and is therefore precisely the kind of formal, disability linked disadvantage that Sections 3 and 20 of the 2016 Act are meant to prevent.

(15). Section 24 of the 2016 Act then links this rights framework to the CRPF's own welfare/GPAIS arrangements by requiring the State to frame social-security and insurance schemes for persons with disabilities, including disability pension and comprehensive insurance, so that when the State chooses to institute such a scheme for CRPF personnel, its terms must, so far as the language reasonably allows, be worked in a way that advances, and does not defeat, the objective of extending social security cover to employees disabled during service.

(16). An interpretation that leaves a permanently disabled jawan completely uninsured because his collapse occurred during leave and in a civil hospital, apparently with the permission or knowledge of the respondents, is out of step with this mandate and should give way to a liberal and harmonious reading where the scheme text is at least open to that construction.

(17). Reliance may be placed on a Supreme Court decision rendered in **Bijender Singh v. Union of India, 2025 AIR Supreme Court 2130**, wherein it

has been held that where no disease is recorded at the time of enrolment and a soldier is later invalided out on medical grounds, his disability is to be presumed attributable to or aggravated by military service, with the burden resting on the State to rebut this by cogent, reasoned medical evidence rather than by a bald “not attributable/not aggravated” endorsement. It further emphasised that disability pension provisions are beneficial in nature and must be interpreted liberally in favour of the disabled serviceman.

(18). The Supreme Court further took note of the Ministry of Defence instructions dated 31.01.2001, Part II thereof classified death/disability cases due to attributable or aggravated causes under Category B that death or disability is to be treated as attributable to or aggravated by military service where so determined by competent medical authority, with illustrative instances such as diseases contracted because of continued exposure to a hostile work environment, extreme weather conditions or occupational hazards. It was held that where there is no note or record to the contrary at the time of enrolment, a member of the armed forces is presumed to be in sound physical and mental health at entry into service, and that any subsequent deterioration in health leading to discharge on medical grounds is to be presumed as due to military service. The relevant portion of the judgment thus read as under:-

“45.1. Thus, this Court held that essence of the Rules is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into the service if there is no note or record to the contrary made at the time of such entry. In the event of subsequent discharge from service on medical ground, any deterioration in health would be presumed to be due to military service. The burden would be on the employer to

rebut the presumption that the disability suffered by the member was neither attributable to nor aggravated by military service. If the Medical Board is of the opinion that the disease suffered by the member could not have been detected at the time of entry into service, the Medical Board has to give reasons for saying so. This Court highlighted that the provision for payment of disability pension is a beneficial one which ought to be interpreted liberally. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that upon proper physical and other tests, the member was found fit to serve in the army would give rise to a presumption that he was disease free at the time of his entry into service. For the employer to say that such a disease was neither attributable to nor aggravated by military service, the least that is required to be done is to furnish reasons for taking such a view.”

(19). In these circumstances, once the petitioner is recognised as a person with disability who became permanently incapacitated while still in service, and the respondents have not produced any material to show that he was medically unfit at the time of enrolment, his disability has, in fairness, to be treated as arising in the course of service unless the employer can establish otherwise with clear medical reasons. In that situation, and given that disability related statutory provisions are meant to be applied in a liberal and beneficial way, the respondents cannot exclude the petitioner from granting the benefit of CRPF welfare/GPAIS scheme merely because his acute episode occurred while he was on sanctioned leave and under treatment in a civil hospital.

(20). This writ petition is allowed and the respondents are directed to grant petitioner the disability/insurance benefits and commutation of pension etc. that are found due, to be calculated and paid within a period of 2 months

from the date of receipt of certified copy of this order. The arrears shall carry interest @ 6% per annum from the date the same became due till its realization failing which the petitioner shall be entitled to interest @ 12% p.a.

(21). Ordered accordingly.

30.01.2026
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No