

CWP-34614-2024 (O&M) 1

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

**(228) CWP-34614-2024 (O&M)
Date of Decision : January 15, 2026**

Union of India and others .. Petitioners

Versus

Lt. Col. Anil Kumar Mago (Retd.) and another .. Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Ms. Neha Jain, Senior Panel Counsel, for the petitioners.

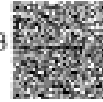
**Mr. Navdeep Singh, Senior Advocate, with
Mr. Roopan Atwal, Advocate, for respondent No.1.**

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to order dated 09.12.2022 (Annexure P-4) in OA No.1664 of 2012 and subsequent order dated 16.02.2023 (Annexure P-5) in MA No.176 of 2023 passed by respondent No.2- Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal') by which, a Re-survey Medical Board has been directed to be re-constituted.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. It may be noticed that after rendering the required service, respondent No.1 superannuated from service and at the said time, he was found suffering from disability of Asthama which was held to be aggravated by the military service. The percentage of said disability as assessed by the Medical Board was between 15-19% being less than 20% due to which, the benefit of



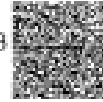
disability pension was not granted to respondent No.1. The respondent No.1 had approached the Court, though after a delay, with the plea that he is still suffering from the said disability of Asthama and therefore, he should be re-assessed by the Medical Board and in case it is found that he is suffering from Asthama, percentage of which may be found to be more than 20%, the said benefit of disability pension should be granted.

3. After examining all the pleas of both the parties and the Rules governing the service, the Tribunal directed the constitution of the Re-survey Medical Board with the direction that in case it is found that the disability suffered has been assessed at 20% or more, the benefit of disability pension is to be granted for a period of three years prior to the filing of the original application.

4. Learned counsel for the appellants argues that the disability of an employee cannot be re-assessed after a period of 25 years being retired from service and in case, the respondent No.1 had any grievance, he should have approached the Court within time stipulated as per rules governing said aspect.

5. Learned Senior Counsel for respondent No.1 controvert the said assertion to contend that only direction has been given to constitute the Re-survey Medical Board so as to find out the percentage of the disability suffered by respondent and the relief which is to be granted in case the disability is assessed at 20% or more has accordingly been modified by stating that respondent No.1 would not be granted the said benefit for the entire period after retirement from service as the same has been restricted to three years keeping in view the delay in approaching the Court.

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

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7. The pensionary benefits especially the benefit of disability pension is the entitlement of an employee who suffered from a disability while serving the petitioners-Union of India. Though, in the present case, the disability was assessed to be aggravated by the military service but percentage of disability assessed was only between 15-19% whereas, minimum percentage of disability of 20% or more is required for the grant of disability pension and due to said reason only that the disability assessed was less than 20%, the benefit of disability pension was not extended.

8. Further, only direction which has been given in the impugned order is to conduct the Re-survey Medical Board to assess the said disability once again. In case, it is found by the Re-survey Medical Board that the disability is 20% or more, then only the said benefit is to be granted whereas, the challenge in present petition is being raised qua the direction given for reconstituting the Medical Board itself on the ground of delay. The delay part has already been taken care by the Tribunal in restricting the arrears in case the respondent No.1 is found entitled for the benefit hence, keeping in view the totality of the circumstances, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

9. Accordingly, the petition is dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

January 15, 2026
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No