



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

CWP-32991-2025

Date of decision : 19.05.2026

Sukhwinder Singh

...Petitioner

Vs.

Union of India and others

...Respondent(s)

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

Present: None for the petitioner.

Ms. Bhavana Datta, Sr.Panel Counsel
for the respondents-UOI.

HARSIMRAN SINGH SETHI, J.(Oral)

1. In the present petition, the challenge is to the order dated 09.09.2025 passed by the Armed Forces Tribunal (hereinafter referred to as 'the Tribunal') by which the original application bearing No.177 of 2020 filed by the petitioner seeking grant of disability element of disability pension has been dismissed.

2. Though no one is appearing on behalf of the petitioner, but a perusal of the record would show that the petitioner was recruited in service on 24.04.1996 and continued working upto 30.04.2018 i.e. the date of his discharge from the service. During the service, in the year 1997, the petitioner was diagnosed with the disability of 'Generalized Tonic Clonic Seizure Disorder' and the disability was assessed as 20% for life. But not attributable to or aggravated by the military service. The petitioner claimed that once the said

disease was found after the recruitment, as per the settled principle of law in case of *Dharamvir Singh vs. Union of India and others*, (2013) 7 SCC 316, the same has to be treated as attributable to the military service and therefore, declining the benefit of the grant of disability element of disability pension is incorrect.

3. Further, even the claim for grant of benefit of rounding off the disability element of disability pension to 50% as against 20% was also raised by the petitioner.

4. Learned counsel appearing on behalf of respondents-UOI submits that though the petitioner was found to be having the disability during the continuance of his military service, however, the same was declared to be neither attributable to nor aggravated by the military service and therefore, no disability element could be granted by ignoring the medical report, which neither attributes the disease to the military service nor the same was found to be aggravated by the military service in any manner.

5. We have heard the learned counsel for the respondents and have gone through the record with her able assistance.

6. As per the judgment of the Hon'ble Supreme Court of India in case of *Dharamvir Singh* (supra), if at the time of the recruitment, no disease was discovered or diagnosed in the recruited officer and further such disease is detected during the continuance of his service, the same has to be held to be attributable to the military service. The judgment of the Hon'ble Supreme Court of India in *Dharamvir Singh's* case (supra) covers the case of the petitioner in his favour. 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, 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 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 argument which has been raised by learned counsel for the respondents is that the petitioner was posted at peace station during his entire service and therefore, attributing the disease to the military service is incorrect.

8. It may be noticed that merely because an officer is posted at peace station does not mean that he cannot suffer the disease keeping in view the stress and the liabilities to be performed by an officer while working for the Army.

9. Further, even if the disease was not to be treated as attributable to the military service, but after the detection of the disease in the year 1997, the officer remained working for another period of 21 years before he was finally discharged on 30.04.2018. Any officer working while suffering the disease, is entitled for the same to be treated as aggravated by the military service especially when he discharged the duties with the disease for a period of 21 years after it was first diagnosed. Hence, even if it is assumed that the disease was not attributable to the military service, even then, it

cannot be said that the same did not get aggravated while working for 21 years with the Army and it is a conceded position that even if the disease is found to be not aggravated by military service, then also the officer is entitled for grant of disability pension in case the disease was detected while in service and the officer concerned continued to render his services thereafter for ore than 2 decades.

10. Once the disability pension is to be granted after treating the disability as attributable to the military service, the petitioner is also held entitled to the benefit of rounding off the disability @ 50% as against 20% in terms of judgment of the Hon'ble Supreme Court in Civil Appeal No.418 of 2012 titled as 'Union of India Versus Ram Avtar', decided on 10.12.2014.

"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."

11. In the present case, the settled principle of law of *Dharamvir Singh's* case (supra) and *Ram Avatar's* case (supra) as well as the regulation granting the benefit of disability pension have not been read in a manner required and the judgment of the Tribunal is perverse. Keeping in view the facts and circumstances of the present case, as well as to the settled principle of law as discussed above, the impugned order of the Tribunal dated 09.09.2025 is accordingly set aside.

12. The petitioner is held entitled for the disability element of disability pension @ 50% as against 20% from the date he was discharged alongwith the arrears which shall be payable within 8 weeks from the date of receipt of copy of this order. Let the same be released within a period of eight weeks from the receipt of certified copy of this order.

13. The petition stands disposed of.

14. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

19.05.2026
vanita

Whether speaking/reasoned :	Yes
Whether Reportable :	No