



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

110

CWP-38790-2025

Date of Decision: 15.01.2026

UNION OF INDIA AND ORS

...Petitioners

Versus

DAVINDER KUMAR AND ANR

...Respondents

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

Present:- Mr. Anil Kumar Sharma, Senior Panel Counsel,
for the petitioners.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the challenge is to the impugned order dated 19.07.2023 (Annexure P-1) passed by the Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal'), by which, the respondent No.1 has been held to be entitled for disability element of disability pension @50% as against 20% for life from the date of his discharge i.e. 01.04.2014

2. Learned counsel for the petitioners places reliance upon the report of the Release Medical Board of respondent No.1 to hold that though the disability of "*Diabetes Mellitus Type-II*" has been found in respondent No.1, but the same has been held by the Release Medical Board to be 'neither attributable to Military Service nor aggravated by the Military service'. Hence, the grant of benefit of disability pension @ 50% to respondent No.1 by the Tribunal vide impugned order dated 19.07.2023 (Annexure P-1) by placing reliance upon the judgment of Hon'ble Supreme



Court of India in **Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761** and **Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316**, is incorrect.

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

4. In the present case, it is a conceded fact that respondent No.1 was recruited in Army on 19.04.1996 and was discharged on 31.03.2014 under the low medical category. Once, respondent No.1 has served for a period of 18 years, the disability which has occurred during the service period has to be attributed to the military service and it could be the possibility that the same was aggravated by the military service keeping in view the various postings on which respondent No.1 has served during 18 years of service with the petitioner-Union of India. It is also a conceded fact that at the time when the respondent No.1 joined the armed forces i.e. 19.04.1996, he was medically examined and was not found suffering from any such disease, on the basis of which, respondent No.1 was ultimately discharged from service.

5. As per the principle settled by Hon'ble Supreme Court of India in **Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316**, which has also been considered by the Tribunal in the impugned order dated 19.07.2023 (Annexure P-1), any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was not found suffering from any such disease at that time on the basis of which, he/she has been discharged from service, such an employee is entitled for the benefit of presumption in his/her favour as per Rule 5 and 9



of 'Entitlement Rules for Casualty Pensionary Awards, 1982' that the said disability has been contracted by the employee during his service career and is, thus, entitled for the benefit of disability pension. The relevant para Nos. 30 and 32 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."

6. Further, as per the settled principle of law settled by Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, wherein 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.”

7. The Hon’ble Supreme Court of India in recent judgment 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**, that 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.

8. Learned counsel for the petitioners has not been able to dispute the said proposition of law having been settled by the Hon’ble Supreme Court of India in **Dharamvir Singh’s** case (supra), **Ram Avtar’s** case (supra) and **Reet MP Singh’s** case (supra).



9. Keeping in view the settled principle of law settled in ***Dharamvir Singh's*** case (supra), ***Ram Avtar's*** case (supra) and ***Reet MP Singh's*** case (supra) as well as the facts and circumstances of the present case that at the time of selection, the respondent No.1 was medically examined and was found fit in all respects and it was only after respondent No.1 rendered service for 18 years with the petitioner-UOI, he was found to be suffering from aforesaid disability along with the fact that no cogent evidence/material or detailed medical record has been brought on record to show this Court that the disability is not attributable to military service, that being so, the said disability has to be attributed to the military service and the report of Medical Board cannot take away the right of respondent No.1 to claim the benefit of disability pension.

10. No other argument has been raised.

11. Hence, in the absence of any perversity being pointed out in the impugned order dated 19.07.2023 (Annexure P-1) 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.

12. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

January 15, 2026
harish

Whether speaking/reasoned	Yes
Whether reportable	No