



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

CWP-39018-2025

Date of Decision : 27.05.2026

No.14812193P Ex.Nk Sukhwinder Kumar

.. Petitioner

Versus

Union of India and others

.. Respondents

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

Present: Mr. Divyansh Shukla, Advocate for
Mr. Jashanjot Singh Uppal, Advocate, for the petitioner.
Mr. Vibhor Bansal, Sr.Panel Counsel for respondent Nos.1 to 4.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present petition, the challenge is to the impugned order dated 25.11.2025 (Annexure P-10) passed by respondent No.5-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal' by which, the claim of the petitioner for grant of disability pension alongwith rounding off has been declined by the Tribunal.

2. Petitioner was enrolled in Indian Army on 18.02.1995 and after rendering 22 years and 11 days he was discharged from service on 28.02.2017 under Army Rule 13 (3) item III(i) with disability MODERATE DEPRESSIVE EPISODE (ICD10-F 32.1) and even as per assessment made by the release medical board, the disability suffered by the petitioner has been assessed @ 40%, but still the benefit of disability pension has been denied to the petitioner only on the ground that petitioner remained disturbed due to ill health of his wife, who was under treatment for Schizophrenia and therefore, any such disability cannot be said to be attributable to or aggravated by the military service.

3. Learned counsel for the petitioner further submits that the disability suffered by the petitioner i.e.MODERATE DEPRESSIVE EPISODE, was not in existence when the petitioner joined the armed force and the same was only detected

while rendering his service with Indian Army and concededly the same was assessed @ 40 % at the time of his discharge from the service i.e. 28.02.2017 and as per the settled principle of law as settled in ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316***, the same has to be treated as attributable to and aggravated by the military service and the petitioner is also entitled for the benefit of rounding off of the said disability from 40 % to 50 % keeping in view the judgment passed by the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***.

4. Learned counsel for the respondent on the other hand submits that though at the time of discharge of the petitioner, the disability suffered by him has been assessed by release medical board to the tune of 40 %, but the same has been assessed as neither attributable to nor aggravated by the military service.

5. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

6.. The law on the said issue has been settled by Hon'ble Supreme Court of India in ***Dharamvir Singh's case (supra)*** wherein it has been held that 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 and attributable to military service as per Rules 5 and 9 of Entitlement Rules, 1982 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. Further, with regard to the prayer of the petitioner qua the benefit of rounding off of disability granted to petitioner, the same issue has also been settled by the Hon’ble Supreme Court of India in **Ram Avtar’s case (supra)**, wherein it has been held that any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her enrolment and was found fit and is subsequently found to be suffering with a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be in favour of such employee, that the disability suffered during the service is attributable to 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.”

8. Learned counsel for the respondents 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) and *Ram Avtar's* case (supra) to the effect that percentage of disability is to be rounded off and in the present case, the disability of 40% is to be rounded off to 50%.

9. Further, in a recent judgment in *Civil Appeal No.11311 of 2025 titled as Union of India and others vs. Reet MP Singh and another, decided on 01.09.2025*, the Hon'ble Supreme Court of India by placing reliance upon *Ram Avtar's Case (supra)* as well as *Bijender Singh vs. Union of India and others, 2025 SCC Online SC 895*, has again reiterated that the benefit of rounding off the disability element cannot be denied.

10. Keeping in view the facts and circumstance of the present case as well as the settled principle of law settled in *Dharamvir Singh's* case (supra), *Ram Avtar's* case (supra), *Reet M.P. Singh (supra)*, and *Bijender Singh's* case (supra) impugned order dated 25.11.2025 (Annexure P-10) passed by the Tribunal is hereby set-aside and the respondents are directed to release the benefit of disability pension in favour of the petitioner by rounding it off from 40 % to 50%, from the date of discharge of the petitioner from the service i.e. 28.02.2017 for life.

11. The present petition is allowed in above terms.

12. Let the present order be complied with within the period of eight weeks from the date of receipt of certified copy of this order.

13. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

27.05.2026

vanita

Whether speaking/reasoned :
Whether Reportable :

Yes
No