



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

**CWP No.15120 of 2025
Date of Decision: 23.05.2025**

Union of India and others

...Petitioners

Versus

No.2488099 Ex Nk Harbans Singh and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Ms. Jyoti Choudhary, Senior Panel Counsel, UOI
for the petitioners.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The provision relating to grant of causality pension to armed forces personnel has to be read liberally. The Apex Court in *Bijender Singh vs. Union of India and others, 2025 SSC OnLine SC 895*, has observed 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.

46. Referring back to the impugned order dated 26.02.2016, we find that the Tribunal simply went by the remarks of the Invaliding Medical Board and Re-Survey Medical Boards to hold that since the disability of the appellant was less than 20%, he would not be entitled to the disability element of the disability pension. Tribunal did not examine the issue as to whether the disability was attributable to or aggravated by military service. In the instant case neither has it been mentioned by the Invaliding Medical Board nor by the Re-Survey Medical Boards that the disease for which the appellant was invalided out of service could not be detected at the time of entry into military service. As a matter of fact, the Invaliding Medical Board was quite categorical that no disability of the appellant existed before entering service. As would be evident from the aforesaid decisions of this Court, the law has by now crystalized that if there is no note or report of the Medical Board at the time of entry into service that the member suffered from any particular disease, the presumption would be that the member got afflicted by the said disease



because of military service. Therefore the burden of proving that the disease is not attributable to or aggravated by military service rest entirely on the employer. Further, any disease or disability for which a member of the armed forces is invalided out of service would have to be assumed to be above 20% and attract grant of 50% disability pension.

47. Thus having regard to the discussions made above, we are of the considered view that the impugned orders of the Tribunal are wholly unsustainable in law. That being the position, impugned orders dated 22.01.2018 and 26.02.2016 are hereby set aside. Consequently, respondents are directed to grant the disability element of disability pension to the appellant at the rate of 50% with effect from 01.01.1996 onwards for life. The arrears shall carry interest at the rate of 6% per annum till payment. The above directions shall be carried out by the respondents within three months from today.”

2. Similar view was taken by the Apex Court in ***Dharmavir Singh vs. Union of India, (2013) 7 SCC 316***, which has been noticed by the AFT. Even otherwise, Sub-Para (f) of Note 2 of Rule 12 of the Entitlement Rules for Casualty Pensionary Awards, 1982, allowed grant of disability pension to an armed forces person who suffers injuries during the period. In the present case, the respondent suffered injuries and his disability was assessed at 20% which has been rounded off to 50% by the AFT. In view of the judgment passed by the Supreme Court in ***Bijender Singh's case (supra)***, the order passed by the AFT does not warrant any interference. The present writ-petition is misconceived and is, accordingly, dismissed.



3. It is noticed that the UOI is not implementing the orders of the AFT for years together. We, therefore, direct that the order be implemented possibly within a period of two months from today, failing which, the concerned aggrieved person would be free to approach this Court for initiating contempt proceedings against the concerned persons, who would be personally liable.

(SANJEEV PRAKASH SHARMA)
JUDGE

23.05.2025
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No