IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(111-2) **CWP-9946-2025**
Date of Decision : September 09, 2025

Union of India and others **.. Petitioners**

Versus

Brig Paramjit Singh Gothra (Retd) No.1C-44619 and another **.. Respondents**

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

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

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present petition, the challenge is to the impugned order dated 18.10.2024 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (for short, 'Tribunal') by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element from 30% to 50% for life w.e.f. from the day next to date of his superannuation from service i.e. 01.10.2021 on the ground that the same is perverse.

2. Learned counsel for the petitioners places reliance upon the report of medical examination of respondent No. 1 to hold that though the disability *of 'Primary Hypertension'* has been found in respondent No.1, but the said disability has been held to be 'neither attributable nor aggravated by the Military service'. Hence, the grant of benefit of disability pension to

HARSHA RANI
2025.09.11 17:30
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respondent No.1 @ 50% as against 30% for life by the Tribunal by placing reliance upon the judgment of in ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316*** & ***Union of India and others vs. Ram Avtar***, **2014 SCC Online SC 1761** is incorrect.

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

4. It is conceded fact that at the time when respondent No.1 retired from service on 30.09.2021, he had already rendered more than 34 years of service with the petitioners-Union of India. It is also a conceded fact that at the time when respondent No. 1 joined the armed forces on 13.06.1987, he was medically examined and was found not to be suffering from any such disease on the basis of which he has been allowed the benefit of disability pension. Said fact has been made the basis by the Tribunal while granting benefit to the respondent No.1 by placing reliance upon ***Dharamvir Singh vs. Union of India and others,*** **(2013) 7 SCC 316**. It should be noted that as per judgment in ***Dharamvir Singh's case (supra)*** 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. 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

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2025.09.11 17:30
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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 "Genrealised seizure (Epilepsy)" at the time of acceptance of his service, it

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2025.09.11 17:30
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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."

5. Further, with regard to the grievance of petitioners qua the 'rounding off of disability pension' the same issue has been settled by the 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 any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her enrolment and was found fit, 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 the Military service. Relevant paras of the judgment in ***Ram Avtar's***case (supra) are as under:-

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2025.09.11 17:30
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> "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.
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> 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.
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> 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."

6. 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)*** and ***Ram Avtar's*** **case**

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2025.09.11 17:30
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(supra) to the extent that the disability element is to be rounded off and in the present case, the disability of 30% is to be rounded off to 50%.

7. 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 ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761*** 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.

8. 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) and Ram Avtar's*** **case (supra)** as well as ***Reet M.P. Singh's case (supra)*****,** once at the time of enrolment, respondent No. 1 was medically examined and was found to be fit in all respects and it was only during his service period that respondent No.1 was found to be suffering from *'Primary Hypertension*. That being so, the said disability has to be attributed to the military service and the unsubstantiated report of Medical Board cannot take away the right of respondent No.1 to claim the benefit of disability pension and that too, by rounding off the disability as per the settled principle of law settled in ***Ram Avtar's case (supra)***

9. Hence, in the absence of any perversity being pointed out in the impugned order dated 18.10.2024 (Annexure P-1) either on the basis of the facts or the settled principle of law, no ground is made out for any

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interference by this Court in the facts and circumstances of the present case and the writ petition is accordingly dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

September 09, 2025 **(VIKAS SURI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No

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