



CWP-6444-2025 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCWP-6444-2025 (O&M)
Date of Decision :30.09.2025

Union of India and others

..Petitioners

Versus

Ex. MWO HFO Rattan Singh Rana
and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURIPresent: Mr. S.K. Sharma, Senior Panel Counsel
for petitioners-UOI.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to the impugned order dated 24.07.2024 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench Chandigarh (hereinafter referred to as 'the Tribunal') by which, respondent No.1 has been allowed the benefit of disability pension from the date of holding of Re-survey Medical Board i.e. 07.03.2022.

2. Learned counsel for the petitioners places reliance upon the report of medical examination of respondent No.1 to hold that though, the disabilities of ' (i) *Bilateral Chronic Galucoma with Optic Atrophy (RE) @ 30% and (ii) Cataract (RE) OPTD @ 30%* ' have been found in respondent No.1, but the said disabilities have been held to be 'neither attributable nor aggravated by the Military service'. Hence, the grant of benefit of disability



CWP-6444-2025 (O&M)

-2-

pension to respondent No.1 from the date of holding of Re-survey Medical Board i.e. 07.03.2022 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*** is incorrect.

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

4. It is conceded fact that at the time when respondent No.1 was released from service on 01.12.2003 he had already rendered 39 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 i.e. on 24.03.1964 he was medically examined and was found not to be suffering from any such disease on the basis of which he was ultimately discharged from service. Said fact has been made the basis by the Tribunal while granting benefit to the respondent No.1 by placing reliance upon ***Dharamvir Singh's case (supra)***.

5. 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 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."

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).

7. 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) 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 (i) *Bilateral Chronic Galucoma with Optic Atrophy (RE) @ 30%* and (ii) *Cataract (RE) OPTD @ 30%* 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 from the date of holding of RAMB i.e. 07.03.2022.

8. Hence, in the absence of any perversity being pointed out in the



CWP-6444-2025 (O&M)

-5-

impugned order dated 24.07.2024 (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 and the writ petition is accordingly dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

September 30, 2025

aarti

Whether speaking/reasoned : Yes

Whether reportable : No

(VIKAS SURI)
JUDGE