IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(122-3) **CWP-7163-2025**
Date of Decision : September 30, 2025

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

Versus

Ex. Naik (TS) Surinder Singh and another **.. Respondents**

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

Present: Mr. Ramesh Chand 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 11.10.2021 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Chandigarh Bench, Chandigarh, (for short, 'the Tribunal') by which, the benefit of disability pension has been allowed in favour of respondent No.1 by rounding off the disability @ 50%, which was assessed at 20% on the ground that the same is perverse

2. Learned counsel for the petitioners submits that the respondent No.1 joined the service of Defence Security Corps (DSC) on 15.03.1997 and was discharged from service on 31.03.2007 in low medical category E2 (P) and since his disability was assessed at less than 20% which is the minimum threshold and a condition precedent for the grant of disability pension, the Tribunal exceeded its jurisdiction while granting the said relief to respondent No.1 while placing reliance on the judgments in ***Civil Appeal No.5605 of 2010 titled as Sukhvinder Singh vs. Union of India and others, decided on 25.06.2014*** and ***Civil Appeal No.418 of 2012 titled as Union of India and others vs. Ram Avtar, decided on 10.12.2014.***

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2025.10.13 16:18
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3. Learned counsel for the petitioners further submits that the disability of "Traumatic Cataract (Right) OPTD", which was suffered by respondent No.1 while being in service and that the same has already been assessed to be not attributable and not aggravated by the military service but this was not appreciated by the Court while granting disability pension @ 20% rounded off to 50% to respondent No.1.

4. We have heard learned counsel for the petitioners and have gone through the record with his able assistance.

5. On being asked that whether, with the disability from which respondent No.1 suffered, the personnel concerned could have continued in service and performed his duties without any hindrance, learned counsel for the petitioners has not been able to rebut the fact that while suffering with the said disability, the officer could not have continued in service. Once, it was an established fact that the officer concerned could not have continued in service owing to the said disability, the only option available was to invalidate him out of service. Since, the reason for being relieved from service is the disability aggravated during the service period, the claim of the petitioner that the benefit of disability pension could not be granted to respondent No.1, cannot be accepted. The injury which is aggravated during military service, forms the basis of him being relieved from service.

6. As per the judgment in ***Sukhvinder Singh's case (supra)***, when the injury/disability, which led to an army personnel being invalidated from service is assessed at less than 20%, for the purpose of the grant of disability pension to such army personnel, the same has to be treated at a minimum of 20%. The relevant paragraph of the judgment is as under:

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> *"11. We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount to granting a premium to the Recruitment Medical Board for their own negligence.*
>
> *Secondly, the morale of the Armed Forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined.*
>
> *Thirdly, there appear to be no provisions authorizing the discharge of invaliding out of service where the disability is below 20 percent and seems to us to be logically so.*
>
> *Fourthly, whenever a member of the Armed Forces is invalided out of service, it perforce has to be assumed that his disability was found to be above 20%.*
>
> *Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty percent disability pension."*

7. Further, as per the principle of law settled by the Hon'ble Supreme Court of India in ***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761***, and upheld in ***Union of India and others vs. Reet M.P. Singh and another, decided on 01.09.2025,*** any disability of 20%, is to be rounded off to 50%, which settled principle of law, has not been rebutted by the learned counsel for the petitioners.

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8. Keeping in view the facts and circumstances of the present case coupled with settled principle of law, the impugned order dated 11.10.2021 (Annexure P-1) passed by the Tribunal, has not been shown to be perverse in any manner. Hence, no ground is made out for any interference by this Court in the facts and circumstances of the present case and the present petition is accordingly dismissed.

9. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

September 30, 2025 **(VIKAS SURI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No

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