



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

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**CWP-9125-2025 (O&M)  
Decided on :30.09.2025**

UNION OF INDIA AND OTHERS . . .Petitioners

Versus

EX. HAV. JAGDISH RAM AND ANOTHER . . . Respondents

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

PRESENT: Mr. Premjit Singh Hundal, Senior Panel Counsel  
for the petitioners. .

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**HARSIMRAN SINGH SETHI , J. (Oral)**

1. In the present petition, the challenge is to the impugned order dated 24.09.2024 (Annexure P-7) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as '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 less than 20% (15%-19%) w.e.f. 01.01.1996 on the ground that the same is perverse.

2. Learned counsel for the petitioners submits that the respondent No.1 joined the service on 21.08.1963 and was discharged from service on 31.01.1980 due to his disability i.e. 'PULMONARY TUBERCULOSIS' which was primarily assessed as 100% for one year i.e. 01.02.1980 to 30.01.1981 and he was granted service pension for life and disability pension for one year. Later on, the said disability was assessed at less than 20% which is the minimum threshold and condition precedent for the grant of



disability pension, the Tribunal exceeded its jurisdiction while granting the said relief to respondent No.1.

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

4. On being asked 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 that with the said disability, the officer could not have continued in service. Once, it was established that the officer concerned could not continue in service due to the said disability, the only option was to invalidate him out and relieve him from service, which has done where disability was the reason to invalidate the respondent. Since, the reason for being relieved from service is the disability incurred during the service period, the claim of the petitioner that the benefit of disability pension could not be granted to respondent No.1 as the disability was found to be less than 20% after the discharge, cannot be accepted. The injury which is admittedly attributable to military service, forms the basis for his being relieved from service even disability less than 20% is to be presumed to be minimum of 20%, even if same was found to be less than 20% after the discharge. Once, on reduction of the disability the respondent No. 1 was not allowed to join back the service, disability found at the time of discharge has to continue so as to grant disability pension otherwise officer concerned will be prejudiced.

5. Even otherwise, as per the settled principle of law settled in **Civil Appeal No.5605 of 2010 decided on 25.06.2014 titled Sukhvinder Singh vs. Union of India and others**, the disability, even if, assessed at less than 20%, leads to the circumstances where personnel concerned cannot



discharge the duties assigned to him/her and has to be relieved from duty, such a disability is to be treated minimum of 20% so as to grant the benefit of disability pension to personnel concerned.

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

*“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 invalidated 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. In view of the law settled once an officer is being discharged on



the ground of disability, even if the disability is less than 20%, same has to be presumed at 20% even after discharge for the grant of disability pension. Further, as per the settled 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 which has been upheld recently 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.Ram Avtar's case (supra)*, and *Reet M.P. Singh's case (supra)*, the disability of 20%, is to be rounded off to 50%, which is a settled principle of law, has not been rebutted by the learned counsel for the petitioners.

8. Keeping in view the totality of the circumstances, the impugned order dated 24.09.2024 (Annexure P-7) passed by the Tribunal, keeping in view the facts and circumstances of the present case coupled with the settled principle of law, 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**

**(VIKAS SURI)**  
**JUDGE**

**30.09.2025**

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No