



CWP-29083-2025 & connected case 1

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

**(127) CWP-29083-2025
Date of Decision : September 26, 2025**

Union of India and others .. Petitioners

Versus

Ex. Sep. Bias Dev Singh and another .. Respondents

(131) CWP-29111-2025

Union of India and others .. Petitioners

Versus

Ex. Sep. Ranveer Singh and another .. Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MRS. JUSTICE RAMESH KUMARI**

Present: Mr. Rajiv Sharma, Senior Panel Counsel, (Hisarwale),
for the petitioners in CWP-29083-2025.

Mr. Narender Kumar Vashist, Senior Panel Counsel,
for the petitioners in CWP-29111-2025.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being disposed of as both the petitions involve the same question of law on similar facts and circumstances.

2. In the writ petition being CWP No.29083-2025, the challenge is to the order dated 09.10.2019 (Annexure P-3) passed by the respondent No.2- Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'The Tribunal') by which, the benefit of disability pension has been extended in favour of respondent No.1 and the order dated 01.05.2023 (Annexure P-7) wherein, the application for seeking leave to appeal against

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the impugned order was dismissed.

3. Learned counsels for the petitioner argues that in the present case, the respondent No.1 was discharged from service on the administrative ground that he is undesirable soldier having awarded six red ink entries and one black ink entry.

4. Learned counsels for the petitioner submits that as a person who was not found desirable to be retained as a soldier could not have been granted the disability pension, which fact has escaped the notice of the Tribunal while granting the relief.

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

6. The question which arises is whether, a soldier who has been discharged on grant of red entries, is entitled to the pension, gratuity or even the disability pension or not.

7. Regulation 113 (c) of the Pension Regulation for the Army, 1961, clearly states that an individual who is discharged under the provision of the Army Act and the rules made there in remains eligible for pension and the gratuity under the Regulations. That being so, whether, a person has been discharged on the ground of undesirability, will be entitled for the same or not.

8. It is a conceded position that the service pension is being made admissible to respondent No.1, the question arise whether, the disability pension can be denied in case the disability was suffered by the respondent while in service and same is to be treated as attributed to the Military service.

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9. The law on the said issue has also been settled by the Hon'ble Supreme Court of India in ***Civil Appeal No. 910 of 1981 titled as Ram Pal Singh vs. Union of India and others, decided on 05.10.1983.*** The Hon'ble Supreme Court of India has held that even if, any employee has been discharged on the ground of undesirability to be retained as a Soldier, the disability pension will be admissible.

10. The same question came up for consideration before the Coordinate Bench of this Court in ***LPA No.309 of 2010 titled as Union of India and others vs. Jaggar Singh, decided on 27.07.2010*** wherein also, despite the discharge on the ground of undesirability to be retained in service on the basis of the red entry suffered by said Jaggar Singh, he was found entitled for the grant of disability pension by placing reliance upon the settled principle of law.

11. Learned counsel for the petitioners has also not been able to rebut the said fact and settled principle of law.

12. Further, the same issue came up for consideration before the Armed Forces Tribunal, Principal Bench, New Delhi in ***OA No.712 of 2015 titled as Ex. NK Bharat Singh vs. Union of India and others, decided on 26.10.2018*** wherein also, the said benefit of disability pension was allowed in favour of a soldier, who was discharged on the basis of red ink entry.

13. The said benefit granted by the Tribunal was tested before the Hon'ble Supreme Court of India in ***Civil Appeal Diary No. 28046 of 2021 titled as Union of India and others vs. Ex. NK Bharat Singh*** but the appeal of the State was dismissed on the ground of delay as well as merit on 21.02.2022.

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14. Keeping in view the Rules, Regulations governing the said issue as well as the settled principle of law, learned counsel for the petitioners has not been able to prove that the relief granted to respondent No.1 is perverse either on Rules, Regulations, facts or the settled principle of law.

15. Though, the issue raised in CWP No.29111 of 2015 is identical but the same also rests on an additional ground, which has been discussed by the Tribunal i.e. at the time when the release was being made on the ground of undesirability, the authorities were also under the opinion that, owing to the disability of “Low Backache ICD No.51.0” even due to the disability, respondent No.1 was incapable of performing the duties.

16. The said fact has also gone un-rebutted at the time of hearing.

17. In the present case, the disability has concededly suffered while in service as the same was not existing at the time when respondent No.1 was recruited in the service i.e. 28.02.1985 hence, as per the judgment of ***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316***, the disability pension will be admissible.

18. Once, the time of the discharge though it was carried out under the head of undesirability, respondent No.1 was infact unable to discharge his duties while in service hence, keeping in view the said additional ground, the respondent No.1 in CWP No.29111 of 2015 has rightly been granted the benefit of disability pension by the Tribunal and the same needs no interference at the hands of this Court.

19. Accordingly, both the writ petitions are dismissed.



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20. Civil miscellaneous application pending if any, also stands disposed of.

21. A photocopy of this order be placed on the file of other connected case.

(HARSIMRAN SINGH SETHI)
JUDGE

September 26, 2025
harsha

(RAMESH KUMARI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No