



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

132

CWP-26647-2025

Date of Decision: 08.09.2025

UNION OF INDIA AND OTHERS

...Petitioners

Versus

EX. HAV JOGINDER RAM AND ANR

...Respondents

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

Present:- Dr. Anju 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 12.12.2022 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which, respondent No.1 has been allowed the benefit of disability pension @ 20% for the intervening period, i.e. 01.08.1992 to 31.07.1994 and further a direction has been issued to the re-constitute the RSMB so as to ascertain that whether disability pension is to be restored or not, and in case respondent No.1 is found to be admissible for same, the same be given to him along with arrears.

2. Learned counsel for the petitioners places reliance upon judgment passed by Hon'ble Supreme Court of India in *Narsingh Yadav vs. Union of India and others*, (2019) 9 SCC 667, to contend that though the disability of "Essential Hypertension" assessed @ 20% for two years has been found in respondent No.1 and has been assessed by Medical Board as



aggravated by military service but the benefit of disability pension has been wrongly granted to respondent No.1.

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

4. In the present case, the grievance of petitioner-UOI is qua two aspects, firstly that claim of respondent No.1 qua grant for disability pension has been accepted by the Tribunal and secondly, that the direction has been given by the Tribunal to reconstitute Medical Board to assess the disability of respondent No.1. Qua the first grievance, it shall be noted that the disability of respondent No.1 was assessed by Medical Board and same was found to be 20% and was also assessed to be aggravated by military service. Once the Medical Board has assessed the said disability as being aggravated by military service for a period of 02 years, it was incumbent upon the petitioner-UOI to either to continue to grant respondent No.1 the said benefit of disability pension or to reassess his disability after a period of two years.

5. As per the principle settled by Hon'ble Supreme Court of India in *Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316.*, which has also been considered by the Tribunal in the impugned order dated 06.03.2023 (Annexure P-1), any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was not found suffering from any such disease at that time on the basis of which, he/she has been discharged from service, such an employee is entitled for the benefit of presumption in his/her favour as per Rule 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982' that the said disability has been contracted by the employee during his service career and



is, thus, entitled for the benefit of disability pension. The relevant para Nos. 30 and 32 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."

6. As for the second grievance of the petitioners, that direction has been given by the Tribunal to reconstitute Medical Board to assess the disability of respondent No.1; qua the said grievance it shall be noted that Tribunal has directed to do so keeping in mind that disability of respondent No.1 was only assessed for two years. The said direction has not been shown by the petitioners being violative of any rule or settled principle of law, and has been given so that the Army personnel has served the Indian Army is not devoid of any benefit, which may be admissible to him after re-assessment of his disability.

7. Keeping in view the above, the direction given to reassess the disability of respondent No.1 cannot be treated as arbitrary.

8. No other argument has been raised.

9. Hence, in the absence of any perversity being pointed out in the impugned order dated 12.12.2022 (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.



10. Accordingly, the writ petition is dismissed.
11. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 08, 2025

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Whether speaking/reasoned Yes

Whether reportable No