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

**105**

**CWP-25396-2025 (O&M)**
**Decided on : 29.08.2025**

UNION OF INDIA AND OTHERS . .Petitioners

Versus

No. 15247172, EX RECT KULDEEP SINGH AND ANOTHER

. . . Respondents

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

PRESENT: Ms. Geeta Singhwal, Senior Panel Counsel, UOI
for petitioner.

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

1. In the present petition, the challenge is to the impugned order dated 25.09.2023 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh (herein after referred to Tribunal), by which, the benefit of disability pension by rounding off the disability of the respondent No. 1 from 40 % to 50 %,, has been allowed in favour of respondent No. 1 for the rest of his life on the ground that the same is perverse.

2. Learned counsel for the petitioner argues that the disability of *"Depressive Episode (Severe) with Psychotic Symptoms"* lead to the invalidation of respondent No. 1 from service, but nothing evident has been brought on record to show that the said disability is either attributed to or aggravated by the military service. Hence, the grant of benefit of disability pension to respondent No.1 by rounding off from 40% to @ 50% for life by the Tribunal by placing reliance upon the judgment of in '***Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316'*** and '***Union of India and others vs. Ram Avtar, 2014 SCC Online SC 1761'*** is incorrect.

3. Learned counsel for the petitioners further argues that keeping in view the judgment of Hon'ble Supreme Court of India in ***Civil Appeal No.***

***7672 of 2019 titled as Narsingh Versus Union of India***, the orders/decisions of the medical board cannot be overruled in routine without there being any valid justification or the material evidence on record, which judgment has not been considered by the Tribunal while passing the impugned order.

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

5. It is a conceded fact that on the date when the respondent No. 1 was recruited in the Armed Forces i.e. on 23.03.2016, he was medically examined and was not found suffering from any such disease, on the basis of which, respondent No. 1 has been invalidated i.e. on 16.03.2017.

6. Learned counsel for the petitioner submits that the disease was of *"Depressive Episode (Severe) with Psychotic Symptoms",* which can be suppressed and could not have been detected at the time of the entry into the Armed Forces. Further, it may be noticed that for the aforesaid argument, the petitioner has to bring on record the cogent evidence to show that the respondent No. 1 was suffering from the said disease even at the time of his engagement in the military service, but the same was not detected despite due diligence, noo such evidence has been brought on record before this Court.

7. On being asked, as to on what account the said findings was given by the Medical Board, learned counsel for the petitioner submits that the medical report has not been brought on record.

8. Further, it can be a fact that keeping in view the stress of training and other job requirements, the officer suffered the said disease which might be either attributed to or aggravated by military service especially when the same has been detected at 40% disability was suffered by the respondent and that too for life. It is also a conceded fact that at the time

when respondent No. 1 joined the armed forces i.e. 23.03.2016, he was medically examined and was found not to be suffering from any such disease Said fact has been made the basis by the Tribunal granting benefit to the respondent No.1 by placing reliance upon ***Dharamvir Singh (supra)***.

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:*
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> *"(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"*
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> *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 "Genrealised 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."*

9. It should be noted that as per ***Dharamvir Singh's case (supra)***, the entitlement Rules 5 and 9, the presumption is in favour of the army personnel who has suffered disability that same is attributable to and aggravated by military service, and the onus of proof is upon the employer to disprove the same by bringing on record the evidence and substantial medical report which could prove the fact that the disability is neither attributable to nor aggravated by military service, which concededly has not been done by the petitioners especially when report of medical board has not been brought

on record hence, the claim of the respondent No.1 is rightly adjudicated by the Tribunal.

10. Further, with regard to the grievance of petitioners qua the 'rounding off of disability pension' the same issue has been settled by the Hon'ble Supreme Court of India in ***Union of India and others versus Ram Avtar, 2014 SCC ONLINE, SC 1761,*** wherein it has been held that any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her enrolment and was found fit, is subsequently found to be suffering with a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be in favour of such employee, that the disability suffered during the service is attributable to the Military service. Relevant paras of the judgment in ***Ram Avtar's case (supra)*** are as under:-

> *"4. By the present set of appeals the appellant(s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding-off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No. 1(2)/97/D(Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.*
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> *5. We have heard learned counsel for the parties to the lis.*
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> *6. We do not see any error in the impugned judgment(s) and order(s) and therefore all the appeals which pertain to the concept of rounding-off of the disability pension are dismissed, with no order as to costs.*

> *7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension. "*

11. 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)*** and ***Ram Avtar's case (supra).***

12. Further, with regard to the argument of the learned counsel for the petitioner that the judgment passed by the Hon'ble Supreme Court of India in ***Narsingh's case (supra)*** has not been considered by the Tribunal while passing the order impugned, it may be noticed that the judgment passed in ***Narsingh's case (supra)*** only states that the findings of the medical board should not be overturned in a routine manner. Nothing has come on record as to why the disease suffered by the respondent cannot be attributed to the military service or aggravated by the military service especially when respondent does not suffer the same at the time of recruitment in Army, and medical report has not been brought on record hence, judgment in ***Narsingh's case (supra)*** cannot be brought in operation in the present case.

13. 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) and Ram Avtar'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 *'"Depressive Episode (Severe) with Psychotic Symptoms"* as assessed @ 40%. That being so, the said disability has to be attributed by 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 by rounding off the disability from @ 40% to @ 50% as per the settled principle of law settled in ***Ram Avtar's case (supra)***.

14. Hence, in the absence of any perversity being pointed out in the impugned order dated 25.09.2023 (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.

15. Pending civil miscellaneous application, if any, stands disposed of.

**(HARSIMRAN SINGH SETHI)**
**JUDGE**

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

***29.08.2025***
*Riya*
*Whether speaking/reasoned: Yes/~~No~~*
*Whether Reportable: ~~Yes~~/No*