



CWP-29071-2025 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-29071-2025 (O&M)
Date of Decision :26.09.2025

Union of India and others

...Petitioners

Versus

Sukhwinder Singh and another

...Respondents

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

Present: Mr. Vikas Sharma, Senior Panel Counsel
for petitioners-UOI.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 03.03.2023 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh, (in short, 'the Tribunal') by which, respondent No.1 has been allowed the benefit of disability pension by rounding off the disability element @ 50% as against 20% from the day next to date of his discharge from service i.e. 01.05.2014.

2. Learned counsel for the petitioners-UOI argues that though the respondent No.1 was on duty but he had left the unit without taking gate pass when the accident occurred and hence, in the enquiry, though the accident was proved but the same was held to be not attributable to the military service.

3. Learned counsel for the petitioners-UOI submits that the said assertion of the department has been overruled without giving valid



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justification so as to grant the benefit of disability pension by rounding off the disability element of the disability pension from 20% to 50%.

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

5. It may be noticed that respondent No.1 was on duty and at around 1.30 p.m. in the afternoon, he had gone to withdraw the cash from ATM as he was to move to the Nazibabad the next day. It was during the said transit to withdraw the cash from ATM, he met with an accident and was admitted in PGIMER, Chandigarh and later on found to be suffering from the disabilities namely, "Closed Head Injury" "Effects of Dilopia" and "Sensorineural Hearing Loss (RT)" which disabilities assessed @20% due to which, the benefit of disability pension was not granted.

6. The only argument raised by the learned counsel for the petitioners-UOI is that before going out of the unit, the respondent No.1 should have gotten the gate pass and as the same was not taken by him, the accident suffered by the respondent No.1 cannot be attributable to the military service.

7. The said question has been considered by the Division Bench of this Court more than once while passing order in ***CWP-14656-2024 titled as Union of India and others vs. No.4456179X Ex. Naik Tara Singh and another decided on 20.11.2024*** wherein, the UOI had raised the same question, this Court held that even if the gate pass was not there at the time when the officer was not on active duty, going out of the Unit without gate pass cannot take away the benefit of accident so suffered to be attributable to the military service. Relevant paragraph of the judgment is as under:-

"Since the records further reveal, that he sustained



the injury owing to a road accident which occurred during his performing active military service, thereupon, even if at the relevant time, his shift on active duty, rather ended, yet the supra factum but cannot restrain the soldier from claiming relief. The reason for so stating becomes grooved in the trite factum that since after his performing his shift/active duty, thus, he was under respite from duty. Therefore, when even during respite, he was evidently stationed within the precincts of the military station, whereins, the disability became entailed upon him. In sequel, the entailment of disability upon the soldier rather during respite hours thus does not dis-entitle him to become a valid recipient of disability pension, nor the disability entailed upon the soldier during respite hours, can be stated to become neither aggravated by military duty nor it can be stated to become not attributable to rendition of military service.”

8. Further, the Hon’ble Supreme Court of India in **Civil Appeal No.1926 of 1999, titled as Madan Singh Shekhawat vs. Union of India and others, decided on 17.08.1999**, held that the grant of disability pension is governed by the various rules in the Defense Service Regulations and as per Rule 10 of the said Regulations, the period of casual leave counts as duty period. Further, in case where an army personnel is travelling either for the purpose of joining or to join the family back after coming from the unit or vice versa, the same is to be treated as part of the duty. Hence, it cannot be said that the act of the late husband of respondent No.1 coming back after booking the ticket for the journey back to join the Unit and that too, while being on duty and meeting with an accident on the way which, led to the death, is not attributed to or connected with the military service.

9. The same issue was again considered by the Hon’ble Supreme Court of India in **Civil Appeal No.2433 of 2011, titled as Union of India and another vs. Surendra Pandey, decided on 18.09.2014** wherein it has been held that travelling back to join the family from the Unit and meeting with an accident on the way, has to be treated as connected with and attributed to the military service so as to grant the special family pension to



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the wife of the deceased officer. The reliance was placed upon the judgment in *Madan Singh Shekhawat's case (supra)*.

10. Thereafter, the same issue again came up for consideration before the the Hon'ble Supreme Court of India in *Civil Appeal No.4981 of 2012, titled as Secretary, Government of India and others vs. Dharambir Singh, decided on 20.09.2019*. The issue as to under what circumstances, an injury suffered or death can be treated as related to the Army service. The relevant extract of paragraph 36 is as under:-

“36. (e) The hazards of Army service cannot be stretched to the extent of unlawful and entirely unconnected acts or omissions on the part of the member of the force even when he is on leave. A fine line of distinction has to be drawn between the matters connected, aggravated or attributable to military service, and the matter entirely alien to such service. What falls ex-facie in the domain of an entirely private act cannot be treated as legitimate basis for claiming the relief under these provisions. At best, the member of the force can claim disability pension if he suffers disability from an injury while on casual leave even if it arises from some negligence or misconduct on the part of the member of the force, so far it has some connection and nexus to the nature of the force. At least remote attributability to service would be the condition precedent to claim under Rules 173. The act of omission and commission on the part of the member of the force must satisfy the test of prudence, reasonableness and expected standards of behaviour.”

11. A bare perusal of the above would show that though the Hon'ble Supreme Court of India held that hazards of the army service cannot be stretched to the extent of unlawful and entirely unconnected acts or omissions on the part of the member of the Force, when such officer is on



leave, but a fine distinction has to be drawn between the matters connected, aggravated or attributable to the military service. The members of the Force can claim disability pension if he suffers disability from an injury while on availing casual leave, even if it arises from some negligence or misconduct on the part of the member of the Force so far as it has some connection and nexus to the nature of the Force. At least, a remote attributability to the service would be the condition precedent to claim benefit of pension under the relevant rules.

12. As per the law settled by Hon'ble Supreme Court of India, in case there is a correlation or remote connection of the injuries suffered or death occurred with the military service, the benefit of disability pension in case of the injury or special family pension in case of the death, can be claimed.

13. Further, the same issue again came up for consideration initially before the Tribunal but reached to the Hon'ble Supreme Court of India, wherein the claim was raised on the basis of the injuries suffered in a road accident while the officer was availing casual leave at home. The Tribunal granted the said benefit to the officer concerned and an appeal was preferred being **Civil Appeal No.122 of 2022, titled as Union of India and others vs. No.2869930A Ex. Hav. Dhanbir Singh, decided on 18.02.2022**, wherein the appeal was dismissed not only on the grounds of delay but on merit as well, which proves that even an injury suffered or death occurred by an army personnel while being on casual leave at home, can be attributed to the military service so as to claim the disability pension or the special family pension as the case may be.

14. Learned counsel for the petitioners-UOI has not been able to



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dispute the said settled principle of law settled as cited hereinbefore.

15. Keeping in view the fact that once in the similar facts and circumstances, the Coordinate Bench of this Court has already allowed the relief in favour of the solidier, declining the said benefit to the respondent No.1 herein only on the asking of the petitioners-UOI cannot be done, hence, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

16. Civil miscellaneous application pending if any is also disposed of

(HARSIMRAN SINGH SETHI)
JUDGE

(RAMESH KUMARI)
JUDGE

September 26, 2025

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Whether speaking/reasoned : Yes

Whether reportable : No