
(2025) 09 P&H CK 0857

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1606 Of 2025 (O&M)

Union Of India And Others

APPELLANT

Vs

JC-183122p EX Sub (Hony Capt) Amerjit Singh And Another

RESPONDENT

Date of Decision : 30-09-2025

Acts Referred:

Citation : (2025) 09 P&H CK 0857

Hon'ble Judges : Harsimran Singh Sethi, J;Vikas Suri, J

Bench : Division Bench

Advocate : Shubham Thakur, Navdeep Singh, Roopan Atwal, Shristhi Sharma

Final Decision : Dismissed

Judgement

Harsimran Singh Sethi , J

1. In the present petition, the challenge is to the impugned order dated 06.03.2019 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Chandigarh, (for short, 'the Tribunal') by which, respondent No.1 has been allowed the benefit of war injury pension by rounding off the disability element @ 100% as against 80% w.e.f. 01.03.1997 and challenge is to the order dated 12.04.2023(Annexure P-4) vide which, the benefit of arrears were granted without placing restrictions thereupon.

2. The only argument raised by the learned counsel for the petitioners is that as the injury was suffered by the respondent No.1 on the account that he was serving in the field area during Operation Rakshak and Avtar, decided on 10.12.2014, as the same is incorrect and the facts of the present case have not been appreciated in correct perspective by the Tribunal while passing the impugned order dated 06.03.2019 (Annexure P-1).

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

4. From the fact which has been narrated herein before it is clear that the

disability pension suffered by the respondent No. 1 has been treated to be attributable to the military service and the benefit of disability pension has already been granted to respondent No. 1 by treating the disability degree at 80 %. The only benefit which has been granted by the Tribunal is of rounding off the disability @ 80 % to 100 %, which is being agitated in the present petition alongwith further grievance that the arrears of the benefit should have been restricted.

5. Further, as per the 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, any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was found fit in all respects, subsequently upon suffering a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be that the disability suffered is attributable to military service. suffered injuries due to enemy's mine blast hence, though the injury suffered by respondent No.1 has been treated to be attributable to the military service but, the same cannot be rounded off so as to grant the benefit of disability pension to respondent No.1 by rounding off the disability element @ 100% as against 80% w.e.f. 01.03.1997 by placing reliance upon the judgment passed in Civil Appeal No.418-2012 Union of India and others vs. Ram 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.

5. We have heard learned counsel for the parties to the lis.

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."

6. 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 Ram Avtar's case (supra) to the effect that percentage of disability is to be rounded off and when applied in present case, disability of 80% is to be rounded

off to 100%.

7. Further, in the recent judgment 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, the Hon'ble Supreme Court of India by placing reliance upon Ram Avtar's case (supra) as well as Bijender Singh vs. Union of India and others, 2025 SCC Online SC 895, has again reiterated that the benefit of rounding off the disability element cannot be denied.

8. As the respondent No.1 had suffered injuries due to enemy's mine blast during the posting at Operation Rakshak and the disability was assessed @ 80% from life and was attributable to the military service. The prayer of the respondent No.1, which has been accepted that the said disability of 80% should be rounded off to 100% for the grant of disability pension from the date the respondent was discharged from service. The said issue is covered by the judgment in Ram Avtar's case (supra).

9. Further with regard to the benefit of arrears granted by the Tribunal vide impugned order, it may be noticed that merely, that the employee has not claimed the benefit admissible to him/her immediately, but when the same is claimed, the benefit so admissible to an employee has to be given from the date of his/her entitlement so that such disabled employee does not suffer due to the inaction on the part of the Union in not granting him/her the benefit admissible.

10. As per the principle of law settled by Hon'ble Supreme Court of India in case titled as 'Balbir Singh Vs. Union of India and Others Civil Appeal No. 3086 of 2012 decided on 08.04.2016, the benefit of arrears cannot be restricted and the respondents cannot be allowed to take the benefit of their own wrong. The relevant paragraph of the said judgment is extracted hereinafter:

"The Tribunal was therefore justified in restoring the service element of the pension in favour of the appellant. The question however is whether the arrears could have been restricted to three years only. The Tribunal in our view need not have done so. That is because the appellant had a right to receive service element of the pension in light of Regulation 186 (supra), which right was valuable and ought to have been protected. The fact that the appellant had approached the Tribunal for redress belatedly was in the peculiar circumstances of the case, no reason for the Tribunal to reduce the payment of arrears to three years only."

11. No other argument has been raised.

12. Hence, in the absence of any perversity being pointed out in the impugned orders dated 06.03.2019 (Annexure P-1) and 12.04.2023 (Annexure P-4) 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.

13. Pending application(s), if any, stands disposed of.