



**33IN THE HIGH COURT OF JAMMU & KASHMIR AND  
LADAKH  
AT JAMMU**

Case No. WP(C) No. 919/2026

Reserved on : 15.04.2026  
Pronounced on : 30.05.2026  
Uploaded on : 30.05.2026  
Whether the operative part or full judgment  
is pronounced

1. **Union of India Th. Secretary to Government of India,  
Ministry of Defence, South Block, New Delhi- 110011.**
2. **The Chief of Army staff Th. AGs Branch, IHQ of MoD  
(Army), Additional Directorate General Services,  
DHQ Po New Delhi-110011**
3. **The Chief Controller of Defence, Accounts (Pension),  
Draupadi Ghat, Allahabad, Uttar Pradesh (UP).**
4. **The Officer-In-Charge, Records, Artillery Records,  
Pin 908802 C/O 56 APO.**

...Petitioner(s)/Appellant(s)

Through:- Mr. Rohan Nanda, CGSC

V/s

**Ex NK Roshan Lal S/O Sh. Munshi Ram,  
R/o Village & P.O. Kalsian, Tehsil Naushera District Rajouri (J&K)**

....Respondent(s)

Through:- Mr. B. S. Sarmal, Advocate  
Mr. Amit Singh, Advocate

**CORAM:**

**HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE**

**HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

**JUDGMENT**

**Per: Sindhu Sharma-J**

1. The petitioners have filed the present writ petition challenging the order dated 29.05.2023 passed by the Armed Forces Tribunal, Srinagar Bench at Jammu



((hereinafter, “AFT”) in OA No. 256/2022 titled *Ex NK Roshan Lal vs. Union of India & Others*. By the said order, the AFT directed the petitioners to grant disability element to the respondent at 20% from 01.01.1994 to 31.12.1995 and thereafter rounding off to 50% from 01.01.1996 for life. However, arrears were restricted to three years prior to the filing of the Original Application i.e., 27.10.2022.

2. The respondent was enrolled in the Indian Army on 23.07.1977. During service, he developed an eye disease, namely *Hypermetropic Amblyopia (Right Eye)*, which was detected in 1991 while he was posted at Namkum. He was placed in low medical category ‘CEE’ (Temporary) with effect from 11.12.1991, and later downgraded to permanent low medical category ‘CEE’. The initial medical board recorded that the disability was contracted during service and not within the control of the respondent. Owing to his permanent low medical category, the respondent was discharged from service on 31.12.1993 under Rule 13(3)(iii)(v) of the Army Rules, 1954. He was granted service pension with effect from 01.01.1994. However, the Release Medical Board assessed his disability at 15–19% for two years and opined that it was neither attributable to nor aggravated by military service (NANA). Consequently, his claim for disability pension was rejected by PCDA (P),



Allahabad on 13.12.1994, and his first appeal was also rejected on 01.11.1996.

3. Subsequently, after obtaining relevant documents through RTI, the respondent submitted a demand notice, which was rejected on 28.12.2018. He then filed OA No. 124/2019 before the Tribunal, which was disposed of on 27.03.2019 with directions to conduct a Review Medical Board (RSMB).

4. In compliance, the RSMB conducted on 22.02.2020 assessed the respondent's disability at 20% for life. His case was forwarded to PCDA (P), Allahabad; however, the claim was returned and later rejected on 29.09.2021 on the ground that the disability was not attributable to or aggravated by military service.

5. Aggrieved thereof, the respondent approached the AFT by filing OA No. 256/2022, which came to be allowed vide the impugned order dated 29.05.2023.

6. The stand taken by the petitioners before the AFF was that the Artillery Records vide letter dated 26.12.2022 has submitted the case of the respondent to PCDA (P), Prayagraj in terms of DGAFMS policy letter No.16036 /RAMB/DGAFMS/MA (Pens) dated 14.05.2020, wherein it was clarified that intervening period will be from the next day of the date of expiry of existing award of disability assessment percentage made by the last medical board till



one day prior to date of current medical board i.e. as per AFMSF-17 dated 20.02.2020 intervening period to be covered under previous medical board, as such, the respondent is not entitled to disability element of disability pension.

7. Heard learned counsel for the parties and perused the material on record.

8. The Tribunal after considering the pleadings framed following two questions while deciding the OA:-

**“(a) whether the Principal Controller of Defence Accounts (Pensions), Allahabad has authority to overrule the opinion of RSMB with regard to the disability?”**

**“(b) Whether the applicant is entitled for the benefit of rounding off the disability element of disability pension?”**

9. Both these questions were decided in favour of the respondent.

10. The AFT considered the rival contentions in the light of law laid down by Hon'ble Apex Court in case titled ***Ex .Sapper Mohinder Singh Vs. Union of India and Ors,*** Civil Appeal No. 164 of 1993 decided on 14.01.1993 and held that the decision of the competent authority i.e., Principal Controller of Defence Accounts (Pensions) Allahabad overruling the opinion of RSMB held on 22.02.2020 is void in law.

11. While considering the issue regarding rounding off disability pension, the Tribunal relied on the judgment in case titled ***Union of India and Ram Avtar & Ors.*** (2014



SCC Online SC 1761. We are in agreement with the view taken by the Tribunal. It is well settled that even those individuals who retired from service or re-employed, are entitled to disability pension. In this Judgment, the Hon'ble Apex Court nodded in disapproval of the policy of the Government of India in granting the benefit of rounding off of disability pension only to the personnel who have been invalidated out of service and denying the same to the Personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision is excerpted below:-

**“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.**



**8. This Court grants six weeks' time from today to the appellant(s) to comply with the orders and directions passed by us."**

12. Further AFT while relying upon the judgment of Hon'ble Supreme Court rendered in case titled **Dharamvir Singh vs. Union of India**, (2013) 7 SCC316 held that the RSMB has assessed the disability of the applicant @ 20% for life, but denied attributability to the respondent only by endorsing that the intervening period covered under previous medical board. However, considering the facts and circumstances of the case, the AFT was of the opinion that this reasoning of RSMB for denying disability element of disability pension for the disability to respondent is cryptic, not convincing and doesn't reflect the complete truth on the matter, as the respondent was enrolled in Indian Army on 23.07.1977 and the disability has started after more than 14 years of Army service i.e., in the year 1991.

13. In Dharamvir Singh's case (supra) the Hon'ble Supreme Court has emphasized that if no disability or disease is recorded at the time of enrolment and if the medical authorities cannot provide reasons for disability to detect the disease at that time, it would be presumed to be attributed to or has arisen during the service. The burden of proof lies with the employee to establish non-entitlement of the person for disability pension.



14. The Hon'ble Supreme Court in case titled ***Sukhvinder Singh v. Union of India*** (2014) 14 SCC 364 has been held that whenever a member of armed force is invalided out of service, it perforce has to be assumed that his disability was found to be above 20%. The Hon'ble Supreme Court further observed as under:-

**“We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount to granting a premium to the Recruitment Medical Board for their own negligence. Secondly, the morale of the Armed Forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined. Thirdly, there appears to be no provisions authorising the discharge or invaliding out of service where the disability is below twenty per cent and seems to us to be logically so. Fourthly, wherever a member of the Armed Forces is invalided out of service, it perforce has to be assumed that his disability was found to be above twenty per cent. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty per cent disability pension.”**

15. In the present case, it is not in dispute that the respondent developed the disability during service after more than 14 years of enrolment. On the contrary, the initial medical board had recorded that the disability was contracted during service and was not within the control of the respondent. The subsequent denial of attributability lacks adequate reasoning and does not inspire confidence.



16. In view of the settled legal position and the facts of the present case, we find no infirmity in the findings recorded by the AFT with regard to attributability of the disability.

17. Accordingly, the writ petition is devoid of merit and is hereby dismissed. The impugned order dated 29.05.2023 passed by the AFT is upheld.

**(Shahzad Azeem)**  
**Judge**

**(Sindhu Sharma)**  
**Judge**

**Jammu:**  
30.05.2026  
Bir\*