

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1518/2024

Reserved on: 17.12.2025
Pronounced on: 13.10.2026
Uploaded on: 13.10.2026

Whether the operative part or full
judgment is pronounced: **Full**

1. **Union of India**
through Secretary to Govt. of India
Ministry of Defence, South Block,
New Delhi-110011
2. **Additional Director General**
(Personnel Services),
Adjutant General's Branch,
Integrated HQ, Ministry of Defence,
(Army), DHQ PO,
New Delhi-110001
3. **Principal Controller of Defence**
Accounts (Pension),
Draupadi Ghat, Allahabad,
Uttar Pradesh-211014
4. **OIC Records, DSC Records,**
Pin-901277, C/o 56 APO

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

Through: Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, CGSC

Vs.

No. 2462902 Ex. Lance Naik,
Babu Ram,
S/o Sh. Hansraj, R/o Vill. Patiyal,
P/o & Tehsil – Bishnah,
District Jammu

....Respondent(s)

Through: Mr. Rajnish Raina, Sr. Advocate with
Mr. Prabhat Sangotra, Advocate.
Mr. Rishu Rajeshwar, Advocate.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

JUDGMENT

Per: Sindhu Sharma-J

1. Through the medium of the present writ petition filed under Articles
226 of the Constitution of India, the petitioners have called in

question the order dated 13.07.2022 passed by the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu in T.A. No.165/2016 titled **“Babu Ram vs. Union of India and others”**, whereby the Tribunal has held the respondent entitled to the grant of disability pension along with the benefit of rounding off.

2. The respondent was initially enrolled in the Indian Army on 07.12.1971 and was discharged on 31.12.1995 after rendering 24 years of qualifying service, for which he was granted service pension. Thereafter, he was re-enrolled in the Defence Security Corps (DSC) on 16.03.1998 for an initial period of ten years was discharged on 31.03.2008.

3. Prior to his discharge, the respondent was examined by a duly constituted Release Medical Board, which assessed his disability, namely *“Bilateral Cataract (Optd) with Pseudophakia ICD”*, at 15-19% and opined the same to be neither attributable to nor aggravated by military service, accordingly, his claim for grant of disability pension was rejected. The first and second appeals preferred by the respondent also came to be rejected.

4. Aggrieved of the same, the respondent approached the Armed Forces Tribunal by filing T.A. No. 165/2016. The learned Tribunal, vide order dated 13.07.2022, allowed the Transfer Application and held the respondent entitled to disability pension along with rounding off benefits by holding as under:

“For all the reasons, hereinabove, this application succeeds and the same is accordingly allowed. Consequently, the applicant, subject to verification, is held entitled to the grant of disability pension @ 50% as against 20% w.e.f. 25.06.2014 after being rounded off as per the ratio of the judgment of the Hon'ble Supreme Court in *Union of India v. Ram Avtar*, Civil Appeal No.418 of 2012 decided on 10.12.2014.

Since the applicant has come to this Tribunal after a gap of about seven years from the date of discharge from DSC, the arrears are restricted to three years preceding the date of institution of the Original Application, i.e., 23.10.2015, and are directed to be released in favour of the applicant within a period of three months from the receipt of certified copy of this order by the learned Central Government Counsel/OIC, Legal Cell, failing which together with interest @ 8% from the date of this order.”

5. The grievance projected by the petitioners is that the Tribunal has failed to appreciate that the disability suffered by the respondent was assessed to be neither attributable to nor aggravated by military service by the Release Medical Board and, as such, the respondent was not entitled to disability pension. It was submitted that since the disability was assessed below 20% and was not attributable to military service, the respondent was not entitled to disability pension under the applicable Pension Regulations. It is further contended that the findings recorded by the Medical Board, being those of an expert body, could not have been interfered with by the Tribunal.

6. *Per contra*, learned counsel appearing for the respondent submits that no disability was recorded either at the time of his initial enrolment or at the time of his re-enrolment in the Defence Security Corps. It is further submitted that the disability manifested during the course of service and no reasons whatsoever were assigned by the Release Medical Board while recording the opinion that the disability was neither attributable to nor aggravated by military service. It is, thus, contended that the Tribunal has rightly granted the respondent the benefit of disability pension.

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

8. The issue that arises for consideration is whether the respondent is entitled to disability pension despite the opinion of the Release Medical Board declaring the disability to be neither attributable to nor aggravated by military service.

9. It may be noticed that the respondent, at the time of joining service, was medically examined and was not found to be suffering from any disability. The Hon'ble Supreme Court in '**Dharamvir Singh vs. Union of India and others**', (2013) 7 SCC 316, 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.

10. Similarly, in '**Union of India and another vs. Rajbir Singh**', (2015) 12 SCC 264, the Hon'ble Apex Court has held as under:

“10. From a conjoint and harmonious reading of Rules 5, 9 and 14 of Entitlement Rules (supra) the following guiding principles emerge:

i) a member is presumed to have been in sound Physical and mental condition upon entering service except as to physical disabilities noted or recorded at the time of entrance;

ii) in the event of his being discharged from service on medical grounds at any subsequent stage it must be presumed that any such deterioration in his health which has taken place is due to such military service;

iii) the disease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in service, if no note of it was made at the time of the Individual's acceptance for military service; and

iv) if medical opinion holds that the disease, because of which the individual was discharged, could not have been detected on

medical examination prior to acceptance of service reasons for the same shall be stated.”

11. In the present case, it is not in dispute that no disability was recorded either at the time of the respondent's initial enrolment in the Army or at the time of his re-enrolment in the Defence Security Corps. It is equally undisputed that the disability manifested during the course of service. Significantly, while recording the opinion that the disability was neither attributable to nor aggravated by military service, the Release Medical Board has assigned no reasons whatsoever for arriving at such conclusion. In the absence of any reasons, the statutory presumption operating in favour of the respondent remains unrebutted.

12. The Tribunal has also noticed that in terms of Regulation 179 of the Pension Regulations for the Army, 1961, read with Regulation 266 applicable to Defence Security Corps personnel, an individual discharged on completion of terms of engagement while suffering from a disability attributable to or aggravated by military service is deemed to have been invalided out of service. The Tribunal has rightly applied the said provisions while examining the claim of the respondent.

13. The Tribunal has further relied upon the judgment of the Hon'ble Supreme Court in '**Sukhvinder Singh v. Union of India and others**' to hold that once an individual is held entitled to disability pension, the benefit cannot be denied merely because the disability assessed by the Medical Board is below 20%. We find no infirmity in the said approach adopted by the Tribunal. Para 9 being relevant is reproduced as under: -

“9. 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.”

14. The contention of the petitioners that the opinion of the Medical Board ought to have been accepted as final also cannot be accepted. Though the opinion of the Medical Board undoubtedly deserves due weight, the same is not conclusive and is always subject to judicial scrutiny. Where the Medical Board records a conclusion without assigning any reasons and in disregard of the settled principles governing entitlement to disability pension, the Court would be justified in declining to accept such opinion.

15. The scheme relating to disability pension is beneficial, intended to provide financial security to members of the Armed Forces who suffer disability during the course of service. Such provisions are required to be interpreted liberally in favour of the personnel, particularly when the disability has manifested during service and no note thereof existed at the time of entry.

16. In the present case, once it stands established that no disability was recorded at the time of enrolment and the disease manifested during service, the respondent is entitled to the benefit of the presumption in his favour.

17. In view of the aforesaid discussion and the law laid down by the Hon’ble Supreme Court, we find no infirmity, illegality or perversity in the order dated 13.07.2022 passed by the learned Armed Forces Tribunal, Srinagar Bench at Jammu. The writ petition, being devoid of merit, is accordingly **dismissed** along with connected application(s).

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Jammu:
13.10.2026
Michal Sharma/PS



: Yes/No