

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP (C) No. 1533/2024

UOI and Ors.

.....Applicant(s)/Petitioner(s)

Through :- Mr. Harshwardhan Gupta, CGSC

v/s

Satbinder Singh

.....Respondent(s)

Through :- Ms. Manpreet Kour, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

ORDER (ORAL)

24.09.2025

Sanjeev Kumar J

1. Impugned in this petition, by the Union of India, is an order and judgment dated 06.09.2022 passed by the Armed Forces Tribunal, Srinagar Bench at Jammu [**"the Tribunal"**] in OA No. 319/2020 titled "*Satbinder Singh vs. UOI and Others*", whereby the Tribunal has, while allowing the OA of the respondent, held him entitled to disability element at 20% rounded off to 50% and restricted the arrears to three years preceding the institution of Original Application, i.e., 14.10.2022 in the Tribunal.
2. The Tribunal has also directed the petitioners to constitute Re-Assessment Medical Board (RAMB) for medical check-up of the applicant at a place nearest to his native village within a period of three weeks and in case the respondent is still found suffering from the disability in question by the RAMB, in that event, the arrears towards consequential monetary benefits shall remain restricted to

three years preceding the institution of OA in the Tribunal, i.e., 14.10.2020.

3. The impugned judgment is challenged by the petitioners, primarily, on the ground that the Tribunal has not appreciated that as per the medical opinion, the disability “Seizure Disorder-345” which was incurred by the respondent within one year of his service was neither attributable to nor aggravated by army service. It is, however, not denied that at the time of enrolment of the respondent, he was found medically fit and no note of his ailment, if any, suffered by him was made.
4. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal is flawless and does not call for any interference by us in these proceedings.
5. Admittedly, the respondent joined the military service on 14.08.1995, in a fit state of health and discharged therefrom before completing his term of engagement on 31.01.2002. The respondent thus, rendered six years five months and eighteen days of service. The disease “Seizure Disorder-345” manifested within one year of his service for which he was treated by the Army Medical Authorities.
6. Having regard to the nature of disability suffered, the respondent was boarded out of service with the disability assessed at 15-19% for two years and as per the medical opinion, the disability was neither attributable to nor aggravated by army service.

7. So far as the plea of the petitioners that respondent was suffering a disability assessed at less than 20%, disentitling him to claim the disability pension is concerned, the same needs to be taken note of only for rejection. This is so because the issue has been set at rest by the Hon'ble Supreme Court in the case of **“Sukhvinder Singh vs. UOI and Others” Civil Appeal No. 5605 of 2010** decided on 25.06.2014, in which it has been categorically held that in case an army person is boarded out of service on account of disability before completion of his tenure without providing him any alternate employment, he shall be presumed to have incurred a minimum disability of 20% and, therefore, shall be entitled to the disability pension.
8. Insofar as the argument of Mr. Harshwardhan Gupta, learned CGSC, that in view of the opinion of the Invalidating Medical Board, the disability was because of a constitutional disease and, therefore, was neither attributable to nor aggravated by army service is concerned, same is also without any substance.
9. We have gone through the Invalidating Medical Board proceedings and do not find any categorical opinion recorded by the Medical Board that the disability “Seizure Disorder-345” is not aggravated by the army service. Though there is opinion of the Medical Board that the disease which led to the disability is constitutional in nature. Merely saying ‘No’, in the column pertaining to “whether aggravated by army service” cannot rebut the presumption envisaged in Rules 5 and 9 of the Entitlement Rules for Casualty Pensionary Awards 1982. This has been the legal position explained

by the Hon'ble Supreme Court in the case of "**Dharamvir Singh vs. UOI**" (2013) 7 SCC 316 which is strongly relied upon by the Tribunal in support of its judgment impugned before us. So far as rounding off of disability is concerned, the issue is already set at rest by the Hon'ble Supreme Court in **Civil Appeal No. 418/2012** titled "**UOI vs. Ram Avtar**" decided on 10.12.2014.

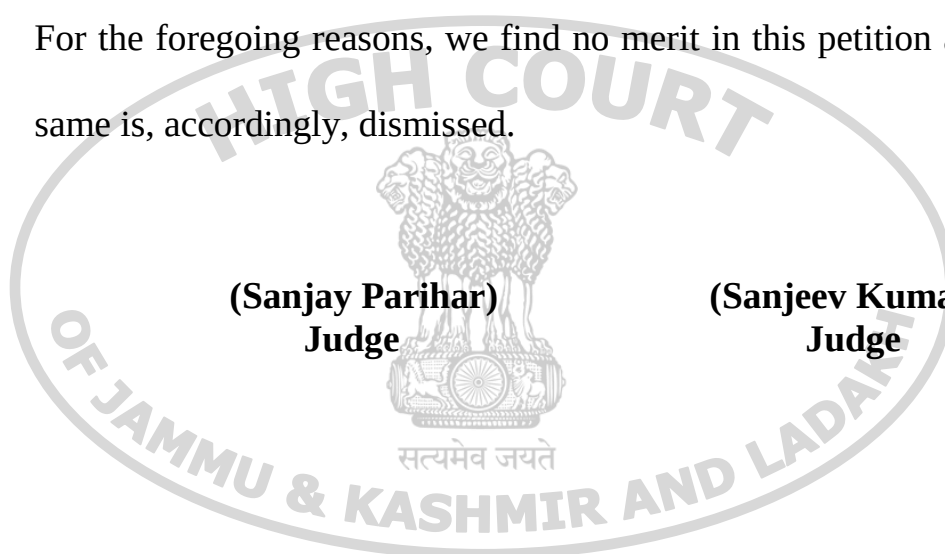
10. In view of the aforesaid, the issue raised by learned counsel for the petitioners is fully covered by the judgments of the Hon'ble Supreme Court, i.e., Sukhvinder, Dharamvir and Ram Avtar's case supra and, therefore no more debate is required to be entered into in this petition.

11. For the foregoing reasons, we find no merit in this petition and the same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
24.09.2025
Manik



Whether this order is speaking: yes/no

Whether this order is reportable: yes/no