

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 17875/2025

No. 285396Y Ex Hav (Clk) Madan Singh S/o Late Shri Keshar Singh, Aged About 81 Years, Resident Of Vpo Lisharia, Teh Shri Madhopur, Distt Sikar (Raj).

-----Petitioner

Versus

1. Union Of India, Through The Secretary, Government Of India, Ministry Of Defence, New Delhi-110011.
2. The Principal Controller, Defence Accounts (Pension), Draupadhi Ghat, Allahabad (Up)-211014.
3. Records The Rajputana Rifles, Pin-900106, C/o 56 Apo.

-----Respondents

For Petitioner(s)	:	Mr. Dharmpal Singh Dhaka
For Respondent(s)	:	Mr. H.R. Rawal

**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJEET PUROHIT**

Order

16/04/2026

1. The issue raised in the present writ petition is with regard to the power available with the Principal Controller, Defence Accounts (Pension) in reducing the disability element of disability pension, which was originally assessed of the petitioner to be 100% for two years and was later on assessed at 20% for life by Re-Survey Medical Board (RSMB) on 20.03.1991.
2. Learned counsel for the petitioner submits that on the basis of insistence of the Principal Controller, Defence Accounts (PCDA), the disability pension was again reduced below 20% by the RSMB, which was held on 27.11.1993.

3. Learned counsel also submits that the petitioner was discharged on medical grounds from Armed Forces on 29.10.1984 under Rule 13 (III)(iii) of Army Rules, 1954 on account of 'Pulmonary Tuberculosis', downgrading to permanent low medical category. At the time of discharge, the disease was attributed to military service thus, we find that so far as the discharge is concerned, it has to be treated as aggravated and attributable to military service, more so in view of the law laid down by the Apex Court in the case of **Bijendra Singh Vs. Union of India & Ors. reported in 2025 SCC OnLine SC 895**, wherein the Apex Court has held as under:

"45. We have already noticed the analysis of Rules 5, 9 and 14 of the Rules in Rajbir Singh (supra). After advertng to the decision of this Court in Dharamvir Singh (supra), this Court opined as under:

14. The legal position as stated in Dharamvir Singh case is, in our opinion, in tune with the Pension Regulations, the Entitlement Rules and the Guidelines issued to the Medical Officers. The essence of the rules, as seen earlier, is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into service if there is no note or record to the contrary made at the time of such entry. More importantly, in the event of his subsequent discharge from service on medical ground, any deterioration in his health is presumed to be due to military service. This necessarily implies that no sooner a member of the force is discharged on medical ground his entitlement to claim disability pension will arise unless of course the employer is in a position to rebut the presumption that the disability which he suffered

was neither attributable to nor aggravated by military service.

15. From Rule 14(b) of the Entitlement Rules it is further clear that if the medical opinion were to hold that the disease suffered by the member of the armed forces could not have been detected prior to acceptance for service, the Medical Board must state the reasons for saying so. Last but not the least is the fact that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability at times even before they completed their tenure in the armed forces. There may indeed be cases, where the disease was wholly unrelated to military service, but, in order that denial of disability pension can be justified on that ground, it must be affirmatively proved that the disease had nothing to do with such service. The burden to establish such a disconnect would lie heavily upon the employer for otherwise the rules raise a presumption that the deterioration in the health of the member of the service is on account of military service or aggravated by it. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that he was upon proper physical and other tests found fit to serve in the army should rise as indeed the rules do provide for a presumption that he was disease-free at the time of his entry into service. That presumption continues till it is proved by the employer that the disease was neither attributable to nor aggravated by military service. For the employer to say so, the least that is required is a statement of reasons supporting that view. That we feel is the true essence of the rules which ought to be kept in view all the time while dealing with cases of disability pension.

45.1. Thus, this Court held that essence of the Rules is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into the service if there is no note or record to the contrary made at the time of such entry. In the event of subsequent discharge from service on medical ground, any deterioration in health would be presumed to be due to military service. The burden would be on the employer to rebut the presumption that the disability suffered by the member was neither attributable to nor aggravated by military service. If the Medical Board is of the opinion that the disease suffered by the member could not have been detected at the time of entry into service, the Medical Board has to give reasons for saying so. This Court highlighted that the provision for payment of disability pension is a beneficial one which ought to be interpreted liberally. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that upon proper physical and other tests, the member was found fit to serve in the army would give rise to a presumption that he was disease free at the time of his entry into service. For the employer to say that such a disease was neither attributable to nor aggravated by military service, the least that is required to be done is to furnish reasons for taking such a view.”

4. The question regarding interference with the disability element by the PCDA was examined by Division Bench of this Court in the case of **Union of India Vs. No.2648428 Ex – Hav And Hony Nb/sub Raghbir Singh** decided on 08.04.2025 and it was held as under:

"5. Applying the ratio laid down by the Hon'ble Supreme Court in the case of Ex Sapper Mohinder Singh Vs. UOI (Civil Appeal No. 164 of 1993) decided on 14.01.1993, the learned Tribunal held that the accounts department does not have authority or any expertise to sit over the assessment made by the Medical Board with regard to extent and period of disability.

6. PCDA(P) reassessment made on 05.04.2003, in our opinion, was not permissible in law because the Chief Controller of Defence Accounts (Pension) did not have any expertise to sit over the correctness of opinion of the Medical Board held on 12.03.1998. The decision of the Hon'ble Supreme Court in the case of Union of India Vs. Wing Commander S.P. Rathore (supra) is distinguishable on facts. That was a case where it was held that the disability element is not admissible if the disability is less than 20% and in such a case, there would be no question of rounding off. However, in the present case, on facts, it has been found that the action of reducing and declaring the disability to less than 20% itself was contrary to the decision of the Hon'ble Supreme Court in the case of Ex Sapper Mohinder Singh Vs. UOI (supra). The aforesaid judgment is clearly distinguishable."

5. We further noticed that by subsequent findings of the RSMB, the disability was reduced from 100% to 20% in 1991 and in 1993 it was further reduced below 20%. The disability pension claim was thereafter rejected. The power of reduction of disability below 20% by the RSMB resulting in denial of disability element of disability pension, in our opinion is unjustified and has no nexus to the purpose sought to be achieved.

6. The RSMB is meant to conduct medical of Ex-Soldiers and Ex-Servicemen, if there is any enhancement of the disability claim

by the concerned Ex-Servicemen. The power cannot be used to deny a person, who has been discharged, on account of disability subsequently by reducing his element of disability.

7. We say so as the concerned person was discharged solely on account of medical disability otherwise he would have continued to perform his duties. If the disease was of such nature, which can be cured, then there has no question of discharging such person from service. Once disease is declared incurable and officer or Ex-Servicemen is discharged, he would be entitled to receive disability pension. Using power of RSMB to deny the benefit of disability pension amounts to taking away the reason for discharging. In fact, if such power is allowed, it would also mean that the concerned Ex-Servicemen can claim re-employment in Armed Forces since he is having less than 20% disability, however, this option has not been given to the Ex- Servicemen.

8. The interpretation of provisions has to be done taking into consideration the situation in which an Ex-Servicemen after he was discharged suddenly from his regular service on account of ailment. While all attempts should be done to cure disease in a general manner, merely because a person is placed in lower medical category, he is being discharged and later on the percentage of disability is also reduced. Our Ex-Servicemen and persons, who have served with the Armed Forces ought not to be dealt with in such a manner to be deprived of pension.

9. The writ petition is accordingly allowed.

10. The order dated 29.02.2024 passed by Armed Forces Tribunal, Regional Bench, Jaipur (Circuit Bench At Jodhpur) is quashed and set aside.

11. The petitioner would be entitled to receive disability pension @ 20%, which would round off to 50% w.e.f. 25.05.1998 in view of the law laid down by Apex Court in the case of **Union of India & Ors. Vs. Ram Avatar** reported in **2014 SCC Online SC 1761**.

(SANJEET PUROHIT),J

(SANJEEV PRAKASH SHARMA),ACJ

21-yagya/A.Arora/-