

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Writ Petition No. 9050/2025

1. The Secretary To The Government Of India, Ministry Of Defence, Government Of India, New Delhi.
2. The Controller Of Defence Accounts (Pension), Allahabad (UP)
3. The OIC (Records), Artillery Records PIN-908802 C/o 56 APO

-----Petitioners

Versus

No. 14426540A Ex Gnr Pratap Singh Yadav Son Of Arjunlal Yadav, Aged About 36 Years (Presently 43 Years), Resident Of Behror Tehsil Behror District Alwar (Rajasthan).

-----Respondent

For Petitioner(s)	:	Mr. Gaurav Jain
For Respondent(s)	:	Mr. Aslam Khan for Mr. Harish Maan

**HON'BLE MR. JUSTICE SUDESH BANSAL
HON'BLE MR. JUSTICE RAVI CHIRANIA**

Order

05/05/2026

1. Instant writ petition under Article 226 of the Constitution of India has been preferred by and on behalf of the Government of India, Ministry of Defense, to question the legality and validity of the final order dated 22.03.2022 passed by the Armed Forces Tribunal, Regional Branch, Jaipur in O.A. No. 09/2017, granting disability element of pension along with broadbanding benefit to 50% to the respondent with effect from 03.01.2014.
2. We have heard counsel for both the parties and perused the record including the impugned order.

3. Issue arises for consideration centres around within short encompass as to entitlement of respondent for disability pension despite of fact that he was discharged from Military Services for administrative reasons, due to declaring him inefficient and undesirable soldier under Rule 13(3) III (v) of Army Rule, 1954.

4. The contention of counsel for the petitioners is that respondent Mr. Pratap Singh Yadav was enrolled in the Indian Army on 17.10.1998 and was discharged from services with effect from 07.03.2008 on account of declaring him inefficient and undesirable soldier. During his service tenor for a period of 9 years and 4 months, he was extended 6 red ink entry punishments, moreover he was not discharged on the ground of being disabled to render services. Hence, Tribunal erred in awarding disability pension in violation to Rule 173 and 173-A of the Pension Regulations for the Army, 1961 (Part-1).

To buttress his contention, reliance has been placed on the judgment of Hon'ble Supreme Court delivered in the case of **Union of India and Others Vs. Ex. Sep. R. Munusamy reported in 2022 SCC OnLine SC 892** so also on the judgment delivered in the case of **Union of India & Ors. Vs. 794898 T. Ex. Corporal Abhishek Pandey; Civil Appeal Nos. 4780-4781 of 2018** decided on **08.11.2019**.

5. Counsel for the respondent has supported the impugned order.

6. Having considered the contention put forth by the counsel for the parties and after perusal of the impugned order passed by the learned Tribunal so also taking into consideration the factual matrix obtaining in the present case, what has emerged from the

record as an undisputed fact is that respondent suffered disability after joining the Military Services and before his discharge from service with effect from 07.03.2008, the Release Medical Board (RMB) assessed his disability @ 20% for life, so also certified that his disability is attributable to the Military Services.

7. It is noteworthy that in the reply of O.A. before the Tribunal as also in the instant writ petition, petitioners have not controverted the factum of sufferance of 20% disability for life by the Ex Gnr Pratap Singh Yadav and his disability has been held to be attributable to his services.

8. Learned Tribunal, after adverting to the factual matrix obtaining in the present case and pondering over the provisions of Rule 173 of the Pension Regulations of the Army, 1961, held that respondent is entitled for disability pension. Merely for the reason that 6 red ink entries as punishment was extended to respondent, his entitlement for disability pension under Rule 173 may not be considered as barred. In view of the undisputed fact that respondent had suffered disability of 20% for life, after joining the Military Services and the disability was attributable to the Military Services, the entitlement to get disability pension was protected by the Tribunal.

The Tribunal has supported its view with the judgment of Hon'ble Supreme Court delivered in case of **Union of India & Ors. Vs. Ram Avtar in Civil Appeal No. 418/2012** decided on **10.12.2014**. In this judgment, the argument put forth on behalf of Union of India before the Hon'ble Supreme Court that the disability pension may not be awarded to the personnel of Armed Forces who have been invalidated out of services, not on the

ground of disability, was taken into consideration by the Hon'ble Supreme Court and while rejecting such argument and dismissing the civil appeals, in Para No. 7, it was held and observed -

"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."

9. For rounding off the pension to 50%, the Tribunal has placed reliance on the judgment passed by the Hon'ble Supreme Court in case of **Union of India & Ors. v. Tarsem Singh [(2008) 8 SCC 648]**.

10. In the judgment of Hon'ble Supreme Court delivered in the case of **Ex. Sep. R. Munusamy (supra)** referred by counsel for the petitioners, the facts were entirely on different footing. Firstly, the disability of undesirable soldier was assessed @ 20% for two years only and further, the claim for disability pension was made by him after an extraordinary delay of 20 years. Lastly, the disability suffered by the undesirable soldier was not considered as attributable to the Military Services. Hence, this judgment does not support the petitioners to question the validity of impugned order passed by the Tribunal, granting disability pension to respondent based on the undisputed fact of certifying the disability of respondent to 20% for life, which has been considered attributable to service.

11. Another judgment of Hon'ble Supreme Court delivered in the case of **794898 T. Ex. Corporal Abhishek Pandey (supra)** relied upon by counsel for the petitioners, nowhere deals with the issue in question. In this judgment, the issue under challenge was the discharge order of the personnel of Indian Air Force on the

ground of undesirable soldier. Tribunal directed his reinstatement along with back wages to the extent of 25%. Such order and direction of Tribunal were quashed by the Hon'ble Supreme Court. Reliance of this judgment by the counsel for the petitioners to the issue of disability pension, as cropped up in this petition, is wholly misplaced.

12. As a result, we do not find that the impugned order suffers from any manifest illegality, impropriety or any kind of perversity, warranting interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India. Hence, the writ petition, being devoid of substance, is hereby dismissed.

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

(RAVI CHIRANIA),J

(SUDESH BANSAL),J