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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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Date of Decision :21.08.2025

The Union of India and others

...Petitioners

Versus

No.3362217L Ex. Sep Sham Singh &amp; another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI  
HON'BLE MR. JUSTICE VIKAS SURI

Present: Ms. Shalini Attri, Senior Panel Counsel  
for the petitioners-UOI.

\* \* \*

**Harsimran Singh Sethi, J. (Oral)**

1. In the present petition, the challenge is to the impugned order dated 23.08.2023 (Annexure P-3) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as Tribunal' by which, the husband of respondent No.1 namely, Sham Singh was granted benefit of war injury pension from the date of his discharge w.e.f. 22.1.1973 to 21.01.1975 and after that service pension till the date he died i.e. on 19.05.2021 and, thereafter, the benefit of liberalized pension in favour of respondent No.1 namely, Karnail Kaur from the next day of his husband's death on the ground that the same is perverse.

2. Learned counsel for the petitioners submits that as the claim was raised by Sham Singh at a belated stage i.e. after the lapse of 44 years from the date of rejection of claim by PCDA (P), which clearly is barred by

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limitation hence, the same should not have been allowed.

3. Further learned counsel for the petitioners argues that the rounding off the disability from 20% to 50% by the Tribunal is also incorrect and hence, the impugned order passed by the Tribunal dated 23.08.2023 (Annexure P/3) may kindly be set aside.

4. We have heard learned counsel for the petitioners and have gone through the record with her able assistance.

5. The injury was suffered by husband of the respondent No.1 Sham Singh in December 1971 during the Indo-Pak war when a bomb which came from the Pakistan side exploded near Sham Singh and due to splinters and heavy smoke and dust, he lost his eyesight, which forced his invalidation from military service. The disability he incurred was chronic Trachoma III and IV assessed @ 20% and (b) Eyes with Macular Haemorrhage left eye @ 12.91% and compositely assessed @ 20% for 02 years however, he was invalidated out of service but the injury suffered by him was held to be neither attributable nor aggravated by the Military service, though, it was mentioned that an appeal can be filed by the husband of the respondent NO.1 but he did not prefer any appeal.

6. It may be noticed that in the year 2017, Sham Singh has filed an O.A. and the fact that the injury suffered by the husband of the respondent No.1 during the Indo-Pak war has gone unrebutted at the hands of the petitioners. It is also clear that the injury was suffered due to the bomb explosion in Indo-Pak 1971 war near Sham Singh due to which, he lost his eyesight and suffered other ailments. Nothing evident has come on record as to why, the said injury/disability suffered was not treated to be attributable to the military service. Any injury suffered during the war especially lost of



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eyesight, which led to invalidation of Sham Singh, cannot be said to be not attributable to the military services or suffered during war.

7. Further, with regard to the grievance of petitioners qua the ‘rounding off of disability pension’ the same issue has been settled by the Hon’ble Supreme Court of India in ***Union of India and others vs. Ram Avtar***, 2014 SCC Online SC 1761, wherein it has been held that any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her enrolment and was found fit, is subsequently found to be suffering with a disability, is entitled to the benefit of disability pension by rounding off the same as the presumption would be in favour of such employee, that the disability suffered during the service is attributable to the Military service. Relevant paras of the judgment in ***Ram Avtar’s*** case (supra) are as under:-

“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.



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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. Learned counsel for the petitioners has not been able to dispute the said proposition of law having been settled by the Hon’ble Supreme Court of India in ***Ram Avtar’s case (supra)*** to the effect that percentage of disability to be rounded off and when applied in the present case disability of 20% to be rounded off to 50%.

9. The last argument which has been raised by the learned counsel for the petitioners is that husband of the respondent No.1 Sham Singh should have filed an appeal at the first given opportunity rather than filing Original application after the lapse of 44 years before the Tribunal in the year 2017.

10. It may be noticed that a solider, who fought for the country in Indo-Pak 1971 war and had suffered the injuries during the bomb explosion, cannot be excluded from the grant of entitled benefit especially, when nothing evident has come on record to show that such solider was in knowledge that he is entitled for the benefit of war injury pension due to the disability suffered by him in Indo-Pak 1971 war.

11. Though, the solider was not aware of the said benefit of war injury pension but the petitioners very well knew that the solider suffered an injury in war and is entitled for the benefit of war injury pension but still the

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Union has ignored the said fact and did not grant the said benefit in favour of such soldier i.e. Sham Singh, for which, he was entitled for and rather expecting such soldier to revert back to claim the said benefit.

12. Not only this, even the disability suffered by the husband of the respondent No.1 Sham Singh was not being treated to be attributable to military service. Such an action on the part of the petitioners cannot be appreciated especially when, it relates to soldier, who fought for the country and had suffered disability and that too in war between two countries. Hence, the petitioners should have come forward to grant the benefit of war injury pension to Sham Singh i.e. husband of the respondent No.1 rather than raising an objection qua delay in denying the said benefit to him.

13. Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No. 3086 of 2012** titled as **'Balbir Singh Vs. Union of India and Others'**, decided on 08.04.2016, respondents cannot be allowed to take benefit of their own wrong. The relevant paragraph of the said judgment is as under:-

*“The Tribunal was therefore justified in restoring the service element of the pension in favour of the appellant. The question however is whether the arrears could have been restricted to three years only. The Tribunal in our view need not have done so. That is because the appellant had a right to receive service element of the pension in light of Regulation 186 (supra), which right was valuable and ought to have been protected. The fact that the appellant had approached the Tribunal for redress belatedly was in the peculiar circumstances of the case, no reason for the Tribunal to reduce the payment of arrears to three years only.”*

14. Keeping in view the facts and circumstances of the present case, the ground taken by the petitioners qua the delay to deny the benefit of war



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injury pension to Sham Singh cannot be accepted and the present petition is accordingly dismissed.

15. No other arguments has been raised.
16. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)  
JUDGE

August 21, 2025  
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(VIKAS SURI)  
JUDGE

Whether speaking/reasoned : Yes  
Whether reportable : No

