



HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No.191/2024

Reserved on: 26.02.2026
Pronounced on: 11 .03.2026
Uploaded on: 12.03.2026

Raghbir Singh, Age 67
S/o Sh. Budhi Singh,
R/o Village & P.O.Gho Manhasan, Tehsil Marh,
District Jammu (J&K)-181206

...Petitioners(s)

Through:-

Mr. Chakshu Sharma, Advocate
(through virtual mode)
Mr. Sanjog Khatri, Advocate

Versus

1. Union of India through its Secretary to Government of India, Ministry of Defence, New Delhi
2. The AFT Tribunal through its Registrar, Srinagar Bench, Sunjwan Cantt, Jammu,
3. The Chief of the Army Staff, IHQ of MoD(Army), Adjutant General's Branch, Additional Directorate, Directorate General Personnel Services, DHQ PO New Delhi-110011.
4. The PCDA (Pension) Grant Section, Allahabad (UP)-211014
5. The Record Officer, Punjab Regiment, Ramgarh Cantonment, Jharkhand-829130

...Respondent(s)

Through:- Mr. Sumant Sudan, Advocate vice
Mr. Vishal Sharma, DSGI

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

JUDGMENT

**Sanjeev Kumar “J”**

1. One Raghbir Singh, a retired soldier of Indian Army is before us in this petition, filed under Article 226 of the Constitution of India, to throw challenge to an order and judgment dated 16th May, 2023 passed by the Armed Forces Tribunal, Regional Bench Srinagar at Jammu [“the Tribunal”] in OA No.230/2022 titled *Ex Nk Raghbir Singh v. Union of India and others*, whereby the Tribunal has dismissed the OA of the petitioner, which was filed primarily to seek a direction to the respondents to grant him war injury element of pension instead of disability element w.e.f. 01.07.1994.
2. Briefly stated, the facts leading to the filing of this petition, as can be culled out from the pleading of the parties and the order impugned, are that the petitioner was enrolled in Indian Army (Punjab Regiment) on 26.11.1977. While serving with 16 Punjab, the petitioner sustained gut shot injury on his left hip at Rupa Post due to negligent handling of weapon by L/Nk Prem Pal of the same Regiment. The Court of Inquiry proceedings conducted in the matter concluded in returning an opinion that the injury sustained by the petitioner was attributable to military service in field service concessional area.
3. The petitioner was discharged from service on 30th June, 1994 under Army Rule 30(3) item III (v) before completion of his



tenure of service. Since the Release Medical Board placed the petitioner in low medical category CEE (permanent) and the same was assessed at 40% for two years and attributable to military service, as such, the disability pension claim of the petitioner was processed. The petitioner was, thus, granted the disability pension w.e.f. 01.07.1994 to 05.06.1996. The petitioner was brought before the Re-survey Medical Board on 15.03.1996 and disability of the petitioner was assessed at 50% for five years. He continued to get the disability pension w.e.f. 06.05.1996 to 14.03.2001. Finally, the petitioner was brought before the Resurvey Medical Board on 30.12.2005, which reassessed the composite degree of disablement of the petitioner @ 50% for life. This was accepted by the PCDA(P), Prayagraj, who vide PPO No. D/RA/1300/206 dated 12.04.2006 granted the disability pension to the petitioner for life w.e.f. 30.12.2005.

4. The petitioner accepted the disability pension granted to him for more than 15 years and it was on 08.07.2021, the petitioner preferred an application under Right to Information Act, 2005 seeking certain information/documents, which were provided to him by the Punjab Regiment vide letter dated 16.08.2021. The petitioner raised claim for grant of war injury element but the same was turned down by the respondents on the ground that there was no evidence available with them regarding the war injury suffered by the petitioner.



5. Feeling aggrieved of rejection of his claim for war injury pension, the petitioner filed OA No. 230/2022 before the Tribunal for grant of war injury element w.e.f. 01.07.1994 for life. The OA was contested by the respondents. In their statement of facts filed before the Tribunal, the respondents took a stand that the petitioner sustained injury on his left hip on 14.06.1990 at Rupa Post due to negligent handling of weapon by L/Nk Prem Pal of the Unit. It was submitted that the injury suffered by the petitioner was held attributable to military service in field service concessional area and, therefore, he was granted disability pension. The OA was also resisted on the ground that there was inordinate delay on the part of the petitioner to approach the Court and, therefore, the OA was hit by delay and laches.
6. Having considered the rival contentions of the parties and material on record including the Rule position, the Tribunal came to the conclusion that the petitioner did not fulfill the condition for grant of war injury element as per Para-4 of Special Army Order 8/S/85 nor the injury sustained by him could be held as battle casualty being not covered under Category-E of Government of India, Ministry of Defence letter dated 31.01.2001. The claim of the petitioner for war injury element was, thus, turned down and the OA was dismissed in terms of the order impugned.



7. The impugned order has been challenged by the petitioner primarily on the ground that the Tribunal has mis-interpreted both, the Special Army Order 8/S/85 and the term “Battle Casualty” as referable to Government of India, Ministry of Defence Letter dated 31.01.2001. It is argued on behalf of the petitioner that a soldier/army man suffering from disability arising out of an injury received by him in an operational area is deemed to be a war injury and, therefore, benefit of ‘War Injury Element of Pension’ cannot be denied to such soldier only on the ground that the injury was accidental in nature and was not inflicted during the course of operation. It is further argued by the learned counsel appearing for the petitioner that when the accident took place i.e. 14th June, 1990, the operation Rakshak was notified by the Government of India and the post where the petitioner suffered injury was in the area of such operation. He would, therefore, submit that any injury sustained by army personnel, whether in an accident or otherwise, in the operation area should be deemed to be a War Injury. He would argue that the Tribunal completely missed out to appreciate this aspect in correct perspective and landed in error in coming to the conclusion that the injury was only an accidental injury and, therefore, outside the purview of war casualty or war injury.

8. Having heard learned counsel for the parties and perused the material on record, we need to first take note of the admitted



factual position obtaining in the case. While we are not clear whether Rupa Post where the accident happened on 14th June, 1990 was in the operational area of operation 'Rakshak' notified by the Government of India or not. It is, however, not in dispute that the disability was suffered by the petitioner when he was accidentally hit on his left hip due to negligent handling of the weapon by L/Nk Prem Pal of his Unit. If we were to presume that the Rupa Post, on 14.06.1990, was under operation 'Rakshak' notified by the Government of India, then the question arises for determination is, *"Whether the accidental injury suffered by the petitioner would fall within the definition of War Injury/Battle Casualties?"*.

9. The "Battle Casualties" is an expression, which finds mention in Paragraph-4 of Special Army Order 8/S/85. This Special Order deals with the casualties occurring between 1985 and 2003. Paragraph-4, which enumerates battle casualties, reads as under:

"Paragraph 4: Battle Casualties: Battle Casualties are those sustained in action against enemy forces or whilst repelling enemy air attacks. Casualties of this type consist of the following categories:-

- (a) Killed in action*
- (b) Died of wounds or injuries (other than self-inflicted)*
- (c) Wounded or injured (other than self-inflicted)*
- (d) Missing.*

Notes

- (1) Air raid casualties are those sustained as a direct or indirect result of enemy air raid. These will be treated as battle casualties.*
- (2) Casualties in fighting against armed hostiles and those whilst in aid of civil power to maintain internal security are classified as physical for statistical purposes but are treated as battle casualties for financial purposes.*



- (3) *Casualties due to encounter with troops or armed personnel or border police of a foreign country, or during fighting in service with peace keeping mission abroad under government orders will be classified as battle casualties.*
- (4) ***Accidental injuries and deaths occurring in action in an operational area will be treated as battle casualties.***
- (5) *Accidental injuries which are not sustained in action and are not in proximity to the enemy, if these have been caused by fixed apparatus (e.g. land mines, booby traps, barbed wire or any other obstacle) laid as defences against the enemy, as distinct from those employed for training purposes and if the personnel kicked, wounded or injured were on duty and are not to blame will be classified as battle casualties notwithstanding the place of occurrence or agency laying those, viz, own troops or enemy, provided the casualties occur within the time limits laid down by the Government.*
- (6) *(6) Saboteurs, even of own country will be treated as enemy for the purposes of classifying their actions as enemy action, and encounters against them as encounters against the enemy.*
- (7) *All casualties during peace time as a result of fighting in war like operations or border skirmishes with a neighbouring country will be treated as battle casualties.*
- (8) *Accidental deaths/injuries sustained due to natural calamities (such as floods, avalanches, landslides and cyclones) or drowning in river crossings at the time of performance of operational duties/ movements whilst in action against enemy forces will be treated as battle casualties.*
- (9) *Reports regarding personnel wounded or injured in action will specify the nature of the wound or injury and will also state whether the personnel remained on duty.*
- (10) *Reports on personnel missing in action will indicate if possible, their likely fate, e.g. believed killed, believed prisoner of war, believed drowned.*
- (11) *Casualties occurring while operating on the international border or line of control due to natural calamities and illness caused by climatic conditions will be treated as physical casualties for statistical purposes and battle casualties for financial purposes.*
- (12) *Casualties taking place while carrying out battle inoculation/training will be treated as physical casualties for statistical purposes and battle casualties for financial purposes."*

10. From a reading of paragraph No.4, reproduced herein above, it is abundantly clear that the battle casualties are those sustained in an action against enemy forces or while repelling enemy air attacks. Such casualties could be of the following categories:



- a) killed in action;
- b) Died of wounds or injuries (other than self-inflicted)
- c) Wounded or injured (other than self-inflicted)
- d) Missing

11. Obviously, the petitioner did not suffer injury in any action against enemy forces or while repelling enemy air attacks. Note-4 of paragraph No.4, which is strongly relied upon by the learned counsel for the petitioner provides that accidental injuries and deaths occurring **in action** in operational area shall be treated as battle casualties. In the instant case, the accidental injury suffered by the petitioner, even if conceded to be in operational area will still not fall under the definition of 'battle casualties' for the reason that the accident in which the petitioner got injured did not happen in any action. There is no nexus or causal connection between an action in the operational area and the injury suffered by the petitioner.

12. Viewed thus, the accidental injury suffered by the petitioner otherwise than in action in operational area is clearly ruled out from the purview of 'battle casualties'. So far as the reliance placed by the learned counsel for the petitioner on the Government of India, Ministry of Defence letter dated 31.01.2001 is concerned, suffice it to say that the provision of the aforesaid Government Order are applicable only to the armed



forces personnel, who were in service on 01.01.1996 or joined thereafter unless otherwise specified in the letter. Para 2.1 of the letter/order reads as under:-

“2.1 The provisions of this letter shall apply to the Armed Forces personnel who were in service on 1.1.1996 or joined/join service thereafter unless otherwise specified in this letter.”

13. For determining the pensionary benefits for death/disability under different circumstances, attributable to or aggravated by army service, cases have been divided into four different categories. Para 4.1 of letter dated 31.01.2001 reads thus:-

“4.1 For determining the pensionary benefits for death or disability under different circumstances due to attributable/aggravated causes, the cases will be broadly categorized as follows:-

Category A

Death or disability due to natural causes neither attributable to nor aggravated by military service as determined by the competent medical authorities. Examples would be ailments of nature of constitutional diseases as assessed by medical authorities; chronic ailments like heart and renal diseases, prolonged illness, accidents while not on duty.

Category B

Death or disability due to causes which are accepted as attributable to or aggravated by military service as determined by the competent medical authorities. Disease contracted because of continued exposure to a hostile work environment, subject to extreme weather conditions or occupational hazards resulting in death or disability would be examples.

Category C

Death or disability due to accidents in the performance of duties such as:-



- (i) Accidents while travelling on duty in Government Vehicles or public/private transport
- (ii) Accidents during air journeys
- (iii) Mishaps at sea while on duty
- (iv) Electrocution while on duty, etc
- (v) Accidents during participation in organized sports events/ adventure activities/expeditions/ training.

Category D

Death or disability due to acts of violence/attack by terrorists, anti-social elements, etc whether on duty other than operational duty or even when not on duty. Bomb blasts in public places or transport, indiscriminate shooting incidents in public, etc. would be covered under this category, besides death/disability occurring while employed in the aid of civil power in dealing with natural calamities.

Category E

Death or disability arising as a result of:-

- (a) *Enemy action in international war*
- (b) *Action during deployment with a peace keeping mission abroad.*
- (c) *Border skirmishes.*
- (d) *During laying or clearance of mines including enemy mines as also minesweeping operations.*
- (e) *On account of accidental explosions of mines while laying operationally oriented mine-field or lifting or negotiating mine-field laid by the enemy or own forces in operational areas near international borders or the line of control.*
- (f) *War like situations, including cases which are attributable to/aggravated by:-*
 - (i) *Extremist acts, exploding mines etc. while on way to an operational area.*
 - (ii) *Battle inoculation training exercises or demonstration with live ammunition and will cover:-*



(a) Flying operation involved in rehearsing of war plans and implementation of OP instructions inclusive of international exercise.

(b) All combat and tactical sorties in preparation of war

(iii) Kidnapping by extremists while on operational duty.

(g) An act of violence/attack by extremists, anti-social elements etc while on operational duty.

(i) Operations specially notified by the Govt. from time to time.”

14. Category-E, which is relevant for our purpose, clearly deals with death or disability that has arisen as a result of operation specially notified by the Government from time to time. From a plain reading of the provision, it is crystal clear that death or disability would be covered under Category-E only if the same has arisen as a result of operation specifically notified by the Government from time to time. This again speaks of a clear nexus between the death or disability with the operation notified by the Government for a particular area. Accidental injuries or deaths which are not in any way connected with the operational duties cannot be said to be ‘War Casualties’ or ‘War Injuries’. There should be a direct and causal connection of the injury with the duties connected with the operational area specially notified by the Government.

15. In the instant case, there is no material on record to conclude that the injury that was suffered by the petitioner due to negligent handling of weapon by a co-soldier in the post is a result of any



operation undertaken by the Unit in the notified area. That apart, in the instant case, the injury occurred in the year 1990 and Government Order was issued on 31.01.2001, making it applicable only to the armed forces personnel, who were in service on 01.01.1996 or joined army service thereafter. From reading of the Government Order dated 31.01.2001 in its entirety, we could not find that the past cases, too, have been provided to be covered by it.

16. For the foregoing reasons as also the detailed reasons given by the Tribunal in support of its judgment, we find no merit in this petition and the same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
11.03.2026
Vinod, Secy

Whether the order is speaking : Yes
Whether the order is reportable: Yes