

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1867/2025

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|---|---------------------------------|
| 1. UOI th. Secretary to Govt. of India,
Ministry of Defence, South Block,
New Delhi-110011. | Appellant(s)/Petitioner(s) |
| 2. The Chief of the Army Staff,
Integrated Headquarters of Ministry
of Defence (Army), South Block,
New Delhi-11 | |
| 3. Principal Controller of Defence
Accounts (Pensions), Draupadi Ghat,
Allahabad, Uttar Pradesh-211014. | |
| 4. OIC Records, Records JAL LI, Pin
Code- 911017, C/o 56 APO. | |

Through: Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, Advocate

vs

No. 12880331X Ex. Naik Joginder Kumar, aged about 59 years, S/o Amar Chand, R/o Village: Kerhi Chinta & Post Office: Chhani Chinta, Tehsil: Bhaderwah & District: Doda- 182222 (UT of J&K)	 Respondent(s)
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Through: Mr. Amit Singh, Advocate

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

ORDER (ORAL)

07.10.2025

Sanjeev Kumar 'J'

1. Impugned in this petition, filed by Union of India and Ors. under Article 226 of the Constitution of India, is an order and judgment dated 20.05.2024 passed by Armed Forces Tribunal, Srinagar Bench at Jammu [**“the Tribunal”**] in O.A. No. 152/2023 titled *No. 12880331X Ex Naik Joginder Kumar Vs. UOI & Ors.*, whereby the Tribunal, has, while allowing the O.A., quashed the order dated 07.10.2019 whereby

the claim of the respondent for grant of disability pension was rejected. The Tribunal has also directed the petitioners herein to grant disability pension to the applicant in accordance with the 2008 regulations within a period of three months from the date of receipt of certified copy of the order. The Tribunal has restricted the arrears to three years before the date of filing of the original application to be paid along with interest @ 6% per annum.

2. The impugned judgment is challenged by the petitioners on the ground that, though, the case of the respondent was covered by the judgment of *Pani Ram Vs. Union of India & Ors.*, Civil Appeal No. 2275 of 2019; 2022 (1) SCT 235 (SC), decided on 17.12.2021, yet the Tribunal could not have issued direction to the petitioners to pay the disability pension.
3. It is submitted by Mr. Vishal Sharma, learned DSGI that the respondent was entitled only to the disability element of the disability pension.
4. Having heard learned counsel for the parties and perused material on record, we are of the considered opinion that the controversy evolved for adjudication in this petition is fully covered by the judgment of *Pani Ram (supra)*. We are, however, are persuaded to agree with the contention of learned counsel for the Union of India that the direction to the petitioners ought to have been for grant of disability element of the disability pension

5. It needs to be clarified that in the instant case, the respondent was not boarded out of service because of disability, but was discharged on completion of term. It is, however, different matter that the respondent could not complete the qualifying period so as to enable him to draw the service pension.
6. Since, in the instant case, the tenure of the respondent in the Territorial Army was not truncated or cut-short because of disability, as such, he was not disabled to serve for the qualifying period to earn the service pension.
7. In that view of the matter, we are of the considered opinion that though the respondent is entitled to the disability element of the disability pension, but cannot be granted the service element.
8. For the foregoing reasons, this petition is partly **allowed** and the respondent is held entitled to the grant of disability element of disability pension. The judgment of the Tribunal is modified only to the aforesaid extent.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

Jammu
07.10.2025
Vishal Sharma

Whether the order is reportable:

Yes/No

Whether the order is speaking:

Yes/No