

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP (C) No. 567/2024

Pronounced on : 07.10.2026

Uploaded on : 08.10.2026

Union of India & Ors.

.....Applicant(s)

Through :- Mr. Sandeep Gupta, CGSC

v/s

Joginder Singh

.....Respondent(s)

Through :-

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE M.A. CHOWDHARY, JUDGE**

ORDER

1. Impugned in this writ petition, filed by the Union of India and its functionaries, is an order and judgment dated 05.08.2021, passed by the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu [**“the Tribunal”**], in OA No. 534 of 2018 titled “*Joginder Singh Vs. Union of India & Ors.*”, whereby the Tribunal has allowed the OA of the respondent and held him entitled to service element of the disability pension restricting the arrears only to three years prior to the filing of the petition i.e. 18.10.2018.
2. Impugned judgment is challenged by the Union of India primarily on the ground that the Tribunal has failed to appreciate that the respondent, who was enrolled in Defence Security Corps (DSC) Service on 13.03.1971, was discharged on 31.03.1976 i.e. after rendering only five years and eighteen days service and, therefore, was not eligible for service pension.

3. Having heard learned counsel for the petitioners and perused the material available on record, we are of the considered opinion that the Tribunal has elaborately considered the issue in light of the relevant regulations, in particular, Regulation Nos. 179 and 266 of the Pension Regulations for the Army, 1961 and has come to the conclusion that the respondent was not only entitled to the disability element of pension but was also entitled to the service element.
4. From a plain reading of Regulation 179 of the Pension Regulations for the Army, 1961, it is abundantly clear that an individual retired/discharged on completion of tenure or on completion of service limits, or on completion of terms of engagement or on attaining the age of 50 years, if found suffering from a disability attributable to or aggravated by Military Service and recorded by Service Medical Authorities, shall be deemed to have been invalided out of service and shall be granted the disability pension from the date of retirement. However, in the instant case, the respondent was actually invalided out of service by refusing him extension on account of the disability, which has been assessed at 50% and was, therefore, entitled to both the elements of disability pension. This is so clear from a plain reading of Regulations 173 and 173-A, which for facility of reference, are set out below:

“173..... Primary conditions for the grant of disability pension:

Unless otherwise specifically provided a disability pension consisting of service element and disability element may be granted to an individual who is invalided out of the service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20 percent or over.

The question whether a disability is attributable to or aggravated by military service shall be determined under the rule in Appendix II.”

“173-A..... Individuals discharged on account of their being permanently in low medical category:

Individuals who are placed in a lower medical category (other than ‘E’) permanently and who are discharged because no alternative employment in their own trade/category suitable to their low medical category could be provided or who are unwilling to accept the alternative employment or who having retained in alternative appointment are discharged before completion of their engagement, shall be deemed to have been invalided from service for the purpose of the entitlement rules laid down in Appendix II to these Regulations.”

5. From a conjoint reading of 173 and 173-A Regulations, the respondent who was boarded out from DSC Service prematurely due to disability attributable to Army service was equally entitled to the benefit of both the elements of disability pension.
6. In view of the aforesaid, as also for the reasons elaborately given by the Tribunal in the judgment impugned, we find no legal infirmity in the judgment impugned.
7. ***This petition is found to be devoid of any merit and the same is, accordingly, dismissed.***

(M.A. Chowdhary)
Judge

(Sanjeev Kumar)
Judge

JAMMU
07.10.2026
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Whether the order is speaking : Yes
Whether the order is reportable : Yes