

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

**WP (C) No.798/2024
CM No. 1916/2024**

Date of pronouncement:28.09.2026

Uploaded on: 30.09.2026

1. **Union of India through its
Secretary to Government of
India, Ministry of Defence, South
Block, New Delhi-110011.**
 2. **Additional Director General
Personnel Services, Adjutant
General's Branch, Integrated HQ
of Ministry of Defence (Army),
DHQ PO, New Delhi-110001.**
 3. **Principal Controller of Defence
Accounts (Pensions), Draupadi
Ghat, Allahabad, Uttar Pradesh-
211014.**
- Petitioner(s)/Appellant(s)

Through:- Mr. Vishal Sharma, DSGI with
Mr. Karan Sharma, CGSC

V/s

**No 9121020K Ex Havildar Avtar
Singh, S/o Shri Hira Singh,
R/o Village: Buraj, Post Office:
Kahana, Tehsil & District Jammu, जते
Jammu and Kashmir-181132**

.....Respondent(s)

Through:- None

**CORAM:HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE YASH PAUL BOURNEY, JUDGE**

ORDER (ORAL)

28.09.2026

1. Impugned in this petition filed by Union of India under Article 226 of Constitution of India is an order and judgment dated 04.02.2021 passed by Armed Forces Tribunal, Regional Bench Srinagar at Jammu [“the Tribunal”] in O.A. No.609/2019 titled “Avtar Singh Vs. Union of India & Ors.”, whereby the Tribunal, while allowing the OA filed by the respondent, has held him entitled to the disability pension, i.e. service element as well as disability element of the disability pension.

The impugned judgment is assailed by the petitioners, primarily, on the ground that the Tribunal has not appreciated that the respondent was discharged from DSC Service upon attaining the age of superannuation of 55 years and, therefore, was not entitled to service element of pension.

2. The issue raised by the petitioners is clearly answered by Regulation 179 of the Pension Regulations for the Army, 1961 which for facility of reference is set out below:

“Disability at the time of retirement/discharge.

179 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 (irrespective of their period of engagement), 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 disability pension from the date of retirement, if the accepted degree of disability is 20 percent or more, and service element if the degree of disability is less than 20 percent. The service pension/service gratuity, if already sanctioned and paid, shall be adjusted against the disability pension/service element, as the case may be.

(2) The disability element referred to in clause (1) above shall be assessed on the accepted degree of disablement at the time of retirement/discharge on the basis of the rank held on the date on which the wound/injury was sustained or in the case of disease on the date of first removal from duty on account of that disease”.

3. From the reading of the Regulation 179, it is evident that an individual retired/discharged on completion of tenure or on completion of terms of engagement or on attaining the age of superannuation, if found suffering from a disability attributable to or aggravated by military service shall be deemed to have been invalided out of service and would be entitled to disability pension from the date of retirement. We would like to clarify that the disability pension would consist of the

disability element as well as the service element of the pension. We have considered this issue in WP(C) No.1748/2024 titled, '**Union of India Vs. Ex. Naik Sham Singh**' and two other clubbed matters and have upheld the identical judgment passed by the Tribunal vide order and judgment dated 10.02.2026 rendered in the aforesaid matters.

4. Paragraph 6 of the said judgment deals with the issue and is reproduced as under:-

“Placing strong reliance upon the Regulation 179 of the Pension Regulation for Army, 1961 read with Regulation 266, the Tribunal came to the conclusion that the general pensionary awards which were available to the Army personnel were also applicable to the persons of DSC and that, in terms of Regulation 179, if an individual is retired/discharged on completion of tenure etc. and is found suffering from disability attributable to or aggravated by military service and recorded by the medical authorities as 20% or more, such individual is entitled to the disability pension i.e. service element as well as the disability element. On the basis of such opinion arrived at by the Tribunal, the plea of the respondent was accepted and he was held entitled to both the elements of the disability pension.”

5. In view of the aforesaid clear position of law emerging from the bare reading of the Regulation 179 of the Pension Regulations for Army, 1961 as interpreted in Sham Singh (Supra), we find no merit in this petition and the same is accordingly **dismissed** along with connected application(s).

(Yash Paul Bourney)
Judge

(Sanjeev Kumar)
Judge

JAMMU
28.09.2026
Eva

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