

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

WP(C) No. 832/2025

Date of pronouncement: 25.02.2026.

Date of uploading: 26.02.2026

Rattani Devi

.....Applicant(s)/Petitioner(s)

Through :- Mr. Uday Bhaskar, Advocate

v/s

Union of India and others

.....Respondent(s)

Through :- Mr. Vishal Sharma, Sr. Adv (DSGI) with
Mr. Eishaan Dadhichi, CGSC

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

ORDER

SANJEEV KUMAR J

1. Impugned in this petition filed by one Rattani Devi, wife of late Ex. L/NK Gian Singh filed under Article 226 of the Constitution of India, is an order and judgment dated 26.09.2024 passed by the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu [**“the Tribunal”**] in TA No. 336/2017 (SWP No. 1348/2013), titled **“Smt. Rattani Devi Vs. Union of India and others”** whereby the Tribunal has dismissed the petition of the petitioner for grant of family pension.
2. Before we advert to the grounds of challenge urged by the learned counsel appearing for the petitioner, we deem it appropriate to notice few facts, as are germane to the disposal of this petition.
3. The husband of the petitioner was enrolled in Jammu and Kashmir State Forces (JAK Rifle) on 10.01.1949. During his service with the respondents, his eye sight deteriorated and he was finally invalided from service on 05.09.1958 after rendering services of 9 years and 8 months.

The Release Medical Board assessed the disability of the husband of the petitioner as “Myopia Astigmatism” (Both Eyes) with 15-19 % for life. Since the board opined that the disability was neither attributable to nor aggravated by Military service, as such, he was not held entitled to disability pension. The husband of the petitioner during his life time represented before the respondents for grant of disability pension number of times, but each time he was informed that he was not entitled to disability pension for the reason that the disability which became the reason for his discharge from army service, was neither attributable to nor aggravated by Military service.

4. The husband of the petitioner died in November, 1990, the petitioner continued the struggle started by her late husband and made several requests and representations to release, in her favour, family pension. It seems that she, too, was conveyed by the respondents that she was not entitled to any family pension for the reason that her husband was not receiving either a service pension or disability pension.
5. Feeling aggrieved, the petitioner filed SWP No. 1348/2013, before this Court, which, on transfer to the Tribunal, was registered as TA No. 336/2017. The writ petition of the petitioner was resisted by the respondents on the following grounds:-
 - (i) That the disability which became the basis of discharge of the husband of the petitioner was neither attributable to nor aggravated by Military service.

(ii) That the disability assessed by the Release Medical Board was 15-19 % for life and, therefore, below 20%, required for grant of disability pension.

(iii) That the husband of the petitioner had not completed the qualifying service and, therefore, he was not entitled to any service pension and on that analogy, the petitioner was not entitled to any family pension.

6. Having considered the rival stand of the parties, the Tribunal accepted the stand of the respondents and concluded that the disability suffered by the late husband of the petitioner was neither attributable to nor aggravated by army service and, therefore, he was not entitled to disability pension. On the same analogy, the Tribunal held the petitioner not entitled to any family pension.

7. The impugned judgment dated 26.09.2024 passed by the Tribunal is challenged by the petitioner, primarily, on the ground that the Tribunal has failed to appreciate that, at the time of his enrollment in Army Service, the husband of the petitioner was hale and hearty and no disease was detected and, therefore, any onset of disease during his service must be attributed to the army service. It is further argued by the learned counsel, appearing for the petitioner, that even if we were to assume that the disability "Myopia Astigmatism" (Both Eyes) may not be attributable to army service, yet there is enough scientific evidence to indicate that such disability is aggravated by the nature of services, an army personnel is required to render in the Indian Army.

8. Mr. Vishal Sharma, learned DSGI, appearing for the respondents, however, contends that the late husband of the petitioner was discharged/invalided from service on 05.09.1958, as such, the petition filed in the year 2013, suffers from huge delay and latches. He would argue that the late husband of the petitioner was time and again apprised of his disentitlement to receive disability pension but he chose not to agitate the matter before any competent Court of law during his life time. He would, therefore, submit that the petitioner cannot be permitted to raise the issue which was set at rest by the respondents way back in the year 1958 itself.
9. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the Tribunal has taken a very narrow and pedantic view of the matter and has, without giving any cogent reasons, accepted the stand of the respondents that the disease “Myopia Astigmatism” (Both Eyes) is neither attributable to nor aggravated by army service.
10. Admittedly, the husband of the petitioner was invalided from service before 2008 and, therefore, was governed by the Pension Regulation for the Army, 1961 (Part 1). The disability “Myopia Astigmatism” (Both Eyes) has manifested during service of the husband of the petitioner. There is also no dispute with regard to the fact that when the late husband of the petitioner was enrolled in the Army Service, he was found in fit state of health and no such disease was detected or any note thereof was made. In such situation as we have already held in the case of ***“Union of India Vs. Nirman Singh Jamwal”***, WP(C) No. 3173/2023

and clubbed matters, which was decided by this Court on 13.11.2025, the disability, onset whereof has been during service, shall be deemed to be attributed to the army service. That apart, having regard to the nature of disability, which the late husband of the petitioner suffered, it can be said that the disability even if, it is not found attributed to army service, is the one that gets aggravated by the nature of duties a soldier is called upon to perform in the army service. This issue has been discussed at length in the judgment (supra).

11. Regarding the plea of limitation raised by Mr. Vishal Sharma, learned DSGI, suffice it to say that denial of pension particularly, a disability pension, is a recurring cause of action and the limitation cannot be pleaded to deny relief to a person, who comes to the Court belatedly. Though the judgments of the Hon'ble Supreme Court suggest and provide that the arrears in such cases should be restricted to 3 years preceding to the filing of a petition.
12. So far as, the disability of 15-19 % as assessed by the Release Medical Board is concerned, suffice it to say, that in view of the judgment of the Hon'ble Supreme Court in "**Sukvinder Singh Vs. UOI**", such disability which has led to the discharge of soldier prematurely has to be taken as 20% so as to enable such person to take the benefit of disability pension.
13. In view of the aforesaid, we find merit in this petition and the same is, accordingly, **disposed of** by providing as under:-
 - (i) That the late husband of the petitioner is held entitled to disability pension i.e., both the service element as well as the disability element.

- (ii) Since the husband of the petitioner had died in November, 1990, as such, the petitioner is held entitled to family pension w.e.f., December 1990.
- (iii) The case of the petitioner shall be processed immediately and requisite orders be passed within a period of 2 months.
- (iv) The arrears of family pension, however, are restricted to three years preceding the filing of SWP No. 1348/2013.

14. ***Disposed of.***

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
25.02.2026
Rahul Sharma

