

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1554/2026

Joginder Singh

.... Petitioner/Appellant(s)

Through:- Mr. Chakshu Sharma, Advocate
(Through Virtual Mode)

V/s

Union of India and others

.....Respondent(s)

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

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

ORDER

03.06.2026

1. Through the medium of the present writ petition filed under Article 226 of the Constitution of India, the petitioner has called in question the order dated 21.03.2023 passed by the Armed Forces Tribunal, Srinagar Bench at Jammu in O.A. No. 223 of 2022 titled "*Joginder Singh Vs. Union of India & Ors.*", whereby though the petitioner has been granted the benefit of rounding off of disability element from 30% to 50% for life, the same has been restricted to a period of three years preceding the date of filing of the Original Application instead of being granted from the date following his discharge from service i.e. 01.08.2002.
2. The facts, in brief, are that the petitioner was enrolled in the Indian Army on 15.07.1978. While in service, he suffered from disabilities namely (i) Otitis Media Effusion (Lt) Optd, (ii) Mild Sensory Neural Hearing Loss and (iii) Severe Nasal Allergy. The Release Medical Board assessed the disabilities at 20% for life and held the same attributable to

and aggravated by military service. The petitioner was discharged from service on 31.07.2002 in '*Low Medical Category*' upon completion of terms of engagement and was granted disability element accordingly. Upon review by the Re-Survey Medical Board, the disability of the petitioner was assessed at 30% for life and disability element was released accordingly. However, the benefit of rounding off of disability element was not extended to him from the date of discharge.

3. Aggrieved thereof, the petitioner filed O.A. No. 223 of 2022 before the Armed Forces Tribunal, Srinagar Bench at Jammu seeking grant of benefit of rounding off of disability element from 30% to 50%. The Tribunal, vide order dated 21.03.2023, held the petitioner entitled to the benefit of rounding off but restricted the monetary benefits to a period of three years preceding the filing of the Original Application by relying upon the judgment of the Hon'ble Supreme Court in '*Shiv Dass v. Union of India*'.

4. The grievance projected by the petitioner in the present writ petition is confined to the restriction imposed by the Tribunal upon the arrears. According to the petitioner, once the entitlement to rounding off stands recognized, the benefit could not have been restricted to three years prior to the filing of the Original Application and ought to have been granted from the date following his discharge from service.

5. Heard learned counsel for the parties and perused the record.

6. In the present case, admittedly the petitioner was already in receipt of disability element, therefore, the issue is only with regard to whether an individual, who has retired on completion of terms of engagement and is

suffering from disability attributable to or aggravated by military service, is entitled to the benefit of rounding off of disability element.

7. The issue regarding grant of broad banding of disability element to the persons of Armed Forces other than those invalidated out from service stands settled by the Hon'ble Apex Court in **“Union of India & Ors. Vs. Ram Avtar”**, wherein it was held that armed forces personnel retiring on completion of tenure with disability aggravated or attributable to military service are eligible for broad banding of disability pension.

8. The only issue, therefore, which survives for consideration is with regard to restriction of arrears on account of delay in approaching the Tribunal. The issue regarding consideration of restriction of benefit of disability pension already stands settled in terms of the judgment of the Hon'ble Apex Court in **“Union of India v. Sgt. Girish Kumar and others etc.”, 2026 INSC 149**. The Hon'ble Apex Court, while considering the grievance of the Union of India regarding payment of arrears of disability pension, framed the issue for consideration as to whether the benefit of arrears of disability pension could be restricted to three years prior to the filing of the Original Application before the Tribunal. The Hon'ble Apex Court, while considering the same, held as under:

“20. This Court has, in a consistent line of decisions, recognised that right to receive disability pension is a valuable right and once found due, the benefit of the same has to be given from the date it became due. The same cannot be curtailed by restricting *K.J.S. Bhuttar v. Union of India & Anr.*, (supra); *Davinder Singh v. Union of India & Ors.* (supra); *Madan Prasad Sinha v. Union of India & Ors.*, (supra); *Piyush Bahuguna* (Order dated 25.03.2022 passed

in Diary No.10713/2021) and Bijender Singh v. Union of India (supra) the benefit to a period of three years preceding the filing of the original application. In the absence of any compelling reason to take a different view, we find no justification to depart from the view consistently taken by this Court.

21. The contention advanced on behalf of the Union of India that the claim for arrears of disability pension is barred by Limitation Act, cannot be accepted. The issue with regard to broad banding of disability pension attained finality only on 10.12.2014. Thereafter, Union of India in the order dated 18.04.2016 addressed to Chiefs of Army, Navy and Air Force acknowledged in clear terms that arrears of disability pension were to flow from 01.01.1996 without any curtailment. Therefore, in the facts and circumstances of the case, the contention that the claims of ex-servicemen were barred by limitation does not deserve acceptance.

22. The reliance placed by the appellant on the decision of a two- Judge Bench of this Court in Tarsem Singh (supra) is of no assistance to it, as the legal landscape did not remain static after decision in Tarsem Singh. Subsequently, a three-Judge Bench of this Court in Ram Avtar (supra), decided the issue of applicability of instruction dated 31.01.2001 and the aforesaid decision is in rem. For, yet another reason, the decision in Tarsem Singh (supra) has no application to the case in hand as ex-servicemen in the instant appeals are already in receipt of disability pension and are only seeking re-computation of the disability pension. The right to approach the Tribunal accrued to ex-servicemen only on 10.12.2014 i.e., when the decision in Ram Avtar (supra) was rendered by this Court. Therefore, the bar contained in Section 22(1)(c) of the Act has no application to the claims filed by the ex-servicemen before the Tribunal. In the facts

and circumstances of the case, we find that the original applications filed by the ex-servicemen do not suffer from any delay or laches disentitling them from claiming the relief of arrears of disability pension. Thus, the objections founded on the delay and limitation is without any merit.”

9. In view of the aforesaid settled position of law, the restriction imposed by the Tribunal limiting the arrears to three years preceding the filing of the Original Application cannot be sustained.

10. Accordingly, the impugned order dated 21.03.2023 passed by the Armed Forces Tribunal, Srinagar Bench at Jammu in O.A. No. 223 of 2022 is modified to the extent that the petitioner shall be entitled to the benefit of rounding off of disability element from 30% to 50% for life with effect from 01.08.2002, i.e., the date following his discharge from service. The arrears so becoming due shall carry simple interest @ 6% per annum till realization.

11. The writ petition is, accordingly, disposed of along with connected applications, if any. The respondents shall comply with the aforesaid directions within a period of three months from the date a copy of this order is made available to them.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Jammu:

03.06.2026

Michal Sharma/PS