

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

**WP (C) No. 1748/2024 c/w
WP (C) No. 1932/2024
WP (C) No. 2017/2024**

*Pronounced on: 09.02.2026
Uploaded on : 10.02.2026*

WP (C) No. 1932/2024

1. Union of India through Petitioner(s)
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.
4. OIC Records, DSC Records, PIN-901277, C/o 56 APO.

Through :- Mr. Rohan Nanda, CGSC

v/s

.....Respondent(s)

No. 4454946M Ex Nk Sham Singh,
S/o Shri Babu Ram,
R/o Village & Post Office, Chakrohi, Tehsil Suchetgarh,
District Jammu.

Through :- Mr. Amit Singh, Advocate
Mr. B R Sarmal, Advocate
Mr. S K Saini, Advocate

WP (C) No. 2017/2024

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its Secretary to Government of India,
Ministry of Defence, South Block, New Delhi-110011.
2. Additional Director General Personnel Services,
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Integrated HQ of Ministry of Defence (Army), DHQ PO,
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Through :- Mr. Vishal Sharma, DSGI with
Mr. Rohan Nanda, CGSC
Mr. Anishwar Chatterji Koul, CGSC

v/s

**No. 2469374F Ex L/Nk Swarn Lal,
S/o Shri Kailash Chand,
R/o Near Firing Range, Raipur Satwari,
District Jammu (J & K)-180003.**

.....Respondent(s)

Through :- **Mr. Amit Singh, Advocate
Mr. B R Sarmal, Advocate
Mr. S K Saini, Advocate**

WP (C) No. 1748/2024

- 1. Union of India through** Petitioner(s)
**its Secretary to Government of India,
Ministry of Defence, South Block, New Delhi-110011.**
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Through :- **Mr. Vishal Sharma, DSGI with
Mr. Rohan Nanda, CGSC
Mr. Anishwar Chatterji Koul, CGSC**

v/s

**No. 9079883F Ex Sep Premu,
S/o Shri Bindra,
R/o Village Khermu, Post Office Ram Nagar,
District Udhampur (J & K).**

.....Respondent(s)

Through :- **Mr. Amit Singh, Advocate
Mr. B R Sarmal, Advocate
Mr. S K Saini, Advocate**

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

**ORDER (ORAL)
09.02.2026**

WP (C) No. 1932/2024

- 1.** Impugned in this petition, filed by the Union of India under Article 226 of the Constitution of India, is an order and judgment dated 03.02.2022 passed by the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu [**“the Tribunal”**] in OA No. 452 of 2019 titled

“Sham Singh Vs. Union of India & Ors.”, whereby the Tribunal has allowed the OA filed by the respondent herein and held him entitled to the benefit of disability pension @ 40% for life, rounded off to 50%.

2. Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion that the judgment passed by the Tribunal falls within four corners of law and, therefore, does not call for interference by us in these proceedings.

3. Indisputably, the respondent was enrolled in the Army on 31.12.1975 in a fit condition and retired therefrom on 31.12.1991, after completion of his normal tenure of service. He was re-enrolled in the Defence Security Corps [**“DSC”**] on 09.12.1995, again in a fit state of health, and was discharged from service on 31.12.2005, after rendering 10 years of service. At the time of discharge, he was placed in Low Medical Category and his disability was assessed for 40% for life. He was released the disability element of pension by the petitioners but was denied the benefit of service element. This is how he approached the Tribunal by way of OA No. 452 of 2019.

4. The claim of the respondent was contested by the petitioners herein on the ground that the respondent was engaged in DSC for a fixed term of 10 years and was discharged on 31.12.2005 after completion of the term. It is submitted that he was neither invalided out of DSC service on medical grounds nor discharged on such grounds and, therefore, was not entitled to service element of the disability pension.

5. The Tribunal, having considered the rival contentions, framed the following question for determination:

“Whether the applicant who was in receipt of army pension at the time of his re-enrolment in the DSC, is entitled to the disability pension in the DSC service also?”

6. 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.

7. We, have given thoughtful consideration to the submissions made by learned counsel appearing on both the sides and have perused the Regulations 179 and 266 of the Pension Regulations for Army, 1961 and, are of the considered opinion that the interpretation placed by the Tribunal on the aforesaid regulations, is absolutely correct and, therefore, calls for no further debate. Rounding off issue has already been dealt with by the Supreme Court in case titled “*Union of India & Ors. Vs. Ram Avtar*”, and on which, the learned counsel for the petitioners raised no dispute.

8. **For the foregoing reasons, we find no merit in this petition and the same, is accordingly, dismissed.**

WP (C) No. 2017/2024

- 1) Impugned in this petition, filed by the Union of India under Article 226 of the Constitution of India, is an order and judgment dated 10.09.2021 passed by the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu [**“the Tribunal”**] in OA No. 11 of 2021 titled *“Swarn Lal Vs. Union of India & Ors.”*. The impugned judgment has been challenged on various grounds.
- 2) Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion that the issues raised by the Union of India in this petition are no longer *res integra* and the case in hand is squarely covered by the judgment passed by this Court in WP (C) No. 1932/2024, titled *“Union of India & Ors. Vs. Sham Singh”*.
- 3) In view of the aforesaid, **this petition is found to be devoid of any merit and the same, is accordingly, dismissed.**

CM No. 120/2025 in WP (C) No. 1748/2024

1. This is an application filed by one Sawitri Devi, claiming to be the wife of respondent Premu, seeking permission of this Court to contest this petition on the ground that the respondent/husband of the applicant, has passed away on 15.05.2024 i.e. during the pendency of this petition. This application is essentially an application for substitution in place of deceased respondent.
2. Learned counsel for the petitioners has no objection.

3. **Application is allowed**, subject to all just exceptions. Applicant Sawitri Devi, wife of late Ex. Sepoy Premu who has died during the pendency of this petition, is substituted as respondent in place of her husband, and obviously, permitted to contest the petition.

WP (C) No. 1748/2024

- 1) Impugned in this petition, filed by the Union of India under Article 226 of the Constitution of India, 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. 281 of 2019 titled *“Premu Vs. Union of India & Ors.”*. The impugned judgment has been challenged on various grounds.
- 2) Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion that the issues raised by the Union of India in this petition are no longer *res integra* and the case in hand is squarely covered by the judgment passed by this Court in WP (C) No. 1932/2024, titled *“Union of India & Ors. Vs. Sham Singh”*.
- 3) In view of the aforesaid, **this petition is found to be devoid of any merit and the same, is accordingly, dismissed.**

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
09.02.2026
Manan

Whether the order is speaking : Yes/No
Whether the order is reportable : Yes/No