



250 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5580-2025 (O&M)
Date of Decision: 27.05.2025

Union of India and others ...Petitioners

Vs.

Rumla Devi and another ...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

Present: Mr. Naveen Gupta, Sr. Panel Counsel for the petitioners.

Mr. Ravi Badyal, Advocate for the respondent No.1.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. Learned counsel for the petitioners has assailed the order passed by the Armed Forces Tribunal dated 10.04.2023, whereby the AFT passed an order granting family pension to the respondent No.1 (the other aspects regarding family pension to her for life and release her the life time arrears towards service pension were recalled by the AFT vide order dated 11.09.2024).

2. Learned counsel submits that the respondent No.1 had concealed from the AFT that a decision had already been taken to reject her claim for grant of family pension on 31.10.2011, which was communicated at her address where she even resides presently too.

He submits that the husband of the respondent was discharged from service under Rule 13(3) Item III (v) of the Army Rules, 1954, being undesirable soldier on 03.02.1987. He had only put in 13 years and 205 days of service including service prior to DSC while qualifying service is 15

years which could at best be condoned for one year in terms of the judgment of the Larger Bench of the Armed Forces Tribunal in *OA No.1238 of 2016* titled as “**Shama Kaur Vs. Union of India and others**” but more than one year of relaxation could not have been granted by the AFT.

The reliance on **Jarnail Singh (Ex. Sepoy) vs. Union of India and others**, MA No.4099 of 2015, decided on 12.12.2022, was erroneous as the order of discharge has not been held to be illegal or unjustified in the present case. He further submits that the claim raised by the respondent No.1 suffers from gross laches and delay as she is claiming family pension w.e.f. 17.10.1998, whereas the OA was preferred firstly in the year 2021.

3. Per contra, learned counsel appearing for respondent No.1 has vehemently argued that so far as the claim of respondent No.1 is concerned, the same has been correctly accepted by the AFT and she would be entitled to receive the family pension and at best the same can be limited to a period of three years prior to passing of the order if the delay is a cause for denial.

4. We have carefully considered the submissions advanced at bar and find that the family pension claim of respondent No.1 suffers from gross laches and delay. No reasons are coming forward for not approaching the authorities or the AFT with regard to claim of family pension. We also notice that so far as reliance on Jarnail Singh case (supra) is concerned, the facts of the said case are totally different. In Jarnail Singh case (supra), the applicant, Jarnail Singh, had rendered 11 years and 6 months of service and had been discharged on account of four red ink entries. The AFT allowed his OA by setting aside the order of discharge under Rule 13(3), Item III (v) of the Army Rules, 1954.

5. In the present case, there is no challenge to the order of discharge. In view thereto, both the cases namely the present case and that of Jarnail Singh (supra) cannot be equated and put at the same pedestal. The settled principle of law is that each case has to be examined on its own facts. In Jarnail Singh case (supra) while the challenge to the discharge order was examined however in the present case, the respondent No.1 only seeks continuation of the period of service for the purpose of granting her family pension.

6. We find ourselves unable to condone shortfall of period of more than one year for the purpose of family pension. The delay in approaching the Court may not be a sufficient ground to oust the respondent No.1 as it is a continuous cause of action for grant of family pension. We, however, are unable to direct the petitioners to release family pension as the discharge order which is based on the concerned person being unsuitable soldier, has not been challenged nor any finding can be given with regard to the same after so many years.

7. In view thereto, the writ petition is accordingly allowed and the order passed by the AFT dated 10.04.2023, is set aside.

8. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(DEEPINDER SINGH NALWA)
JUDGE

27.05.2025
rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No