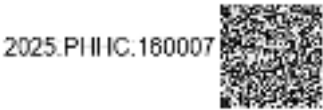


CWP-25696-2024 & 1
connected case



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CWP-25696-2024
Date of decision: 18.11.2025

UNION OF INDIA AND OTHERSPetitioners

Versus

CHAND SINGH ANTAL EX AC (U/T) AND ANOTHER
...Respondents

2) CWP-25739-2024

UNION OF INDIA AND OTHERSPetitioners

Versus

EX AC (U/T) MUKUL AND ANOTHERRespondents

3) CWP-25792-2024

UNION OF INDIA AND OTHERSPetitioners

Versus

EX WO ADITYA PRATAP AND ANRRespondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Sunil Sharma, Advocate
for the petitioner in CWP-25696-2024 & CWP-25739-2024.

Mr. Lalit Attri, Advocate
for the petitioner in CWP-25792-2024.

Mr. B.S. Rathee, Advocate
for respondent No.1 in CWP-25696-2024.

Mr. Arshit Goel, Advocate and



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Mr. Ajay Sheoran, Advocate
for respondent No.1 in CWP-25739-2024.

HARSIMRAN SINGH SETHI, J. (Oral)

1. By this common order, the above-noted petitions are hereby adjudicated as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from CWP-25696-2024.

2. In the present case, challenge is to the impugned order dated 20.09.2023 (Annexure P-3) passed by the Armed Forces Tribunal, Chandigarh Bench (hereinafter referred to as 'the Tribunal') by which the benefit of invalid pension has been extended in favour of the respondent No.1 from the date of his discharge from service i.e. 15.09.1987 for life, keeping in view the judgment of the Hon'ble Supreme Court of India in ***SLP (c) No.20339-2011*** titled '***Union of India and others Vs. P.A. Thomas***' decided on 14.03.2019, which is incorrect.

3. Learned counsel for the petitioner submits that once the respondent No.1 did not have minimum 10 years of service, he could not have been granted even the invalid pension and Regulations 197 of the Pension Regulation Army, 1961 have wrongly been interpreted to grant the benefit of invalid pension.

4. Learned counsel for the petitioner(s) further submits that the benefit of the instruction issued in the year 2019 has been extended in favour of the respondent though the said instructions were prospective in nature and could not have been made applicable upon the respondent, as he was invalidated out on 14.09.1987. Learned counsel submits that the



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said aspect has not been considered by the Tribunal while passing the impugned order.

5. Learned counsel for the respondent(s) further submits that the instructions dated 16.07.2020 issued by the Government, which have been effective from 04.01.2019, have already been read down by the Hon'ble Supreme Court of India while passing the order in ***P.A Thomas's*** case (supra) and further, the Coordinate Bench of this Court in ***CWP No.28442 of 2023*** decided on 07.01.2025 titled '***Union of India and others Vs. Sandeep Kumar and another***', the operation of the said instructions prospectively has already been set aside. Hence, the same are applicable even *qua* the employees who were invalidated out prior to 04.01.2019.

6. We have heard the learned counsel for the parties and has gone through the record with their able assistance.

7. It is a conceded fact that respondent No.1 was enrolled in the Indian Air Force on 21.05.1986 in a fit state of health and was invalidated out on 14.09.1987 after rendering 1 year and 118 days service on medical ground as he was found to be suffering the disability of "*Schizophrenia*".

8. The question of the applicability of the instructions dated 16.07.2020, which have been made operative from 04.01.2019, has been raised before this Court. It is a conceded position that the Coordinate Bench of this Court, while passing an order in ***Sandeep Kumar's*** case (supra), has already set aside the said instructions qua the prospective applicability and held that same will be applicable upon the cases of the employees who were invalidated out prior to 04.01.2019. Learned counsel for the petitioner(s) has not been able to dispute the said factual



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position. In paragraph 14 of the judgment, it has been held that the instructions will be applicable qua all, irrespective of whether the officer concerned has been invalidated out prior to 04.01.2019.

9. Further, it is not in dispute that in case the instructions dated 16.07.2020 are made applicable, the benefit extended to the respondents is in consonance with the instructions. That being so, the argument raised that the instructions dated 16.07.2020 have been made applicable retrospectively cannot be accepted in view of the facts and circumstances mentioned hereinbefore. No ground is made out to interfere with order dated 20.09.2023 (Annexure P-3).

10. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***SLP(C) No.20339 of 2011 titled as Union of India and others vs. P.A.Thomas, decided on 14.03.2019*** even if an officer is invalidated out prior to the completion of 10 years of service, he/she is entitled for the grant of invalid pension. The relevant paragraphs of the said judgment are as under:-

“Rules 38 and 49 of the Central Civil Services (Pension) Rules, 1972 have been amended on 4.1.2019 in the following manner:-

“2. In the Central Civil Services (Pension) Rules, 1972 –

(i) in rule 38, for sub-rule (1) and sub-rule (2), the following subrules shall respectively be substituted, namely:-

“(1) The case of a Government servant acquiring a disability, where the provisions of section 20 of the Rights of Persons with Disabilities Act, 2016 SLP(C) 20339/2011 (49 of 2016) are applicable, shall be governed by the provisions of the said section:

Provided that such employee shall produce a



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disability certificate from the competent authority as prescribed under the Rights of Persons with Disabilities Rules, 2017.

(2) If a Government servant, in a case where the provisions of section 20 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016) are not applicable, retires from the service on account of any bodily or mental infirmity which permanently incapacitates him for the service, he may be granted invalid pension in accordance with rule 49:

Provided that a Government servant, who retires from service on account of any bodily or mental infirmity which permanently incapacitates him for the service before completing qualifying service of ten years, may also be granted invalid pension in accordance with sub-rule (2) of rule 49 subject to the conditions that the Government servant-

(a) has been examined by the appropriate medical authority either before his appointment or after his appointment to the Government service and declared fit by such medical authority for Government service; and

(b) fulfills all other conditions mentioned in this rule for grant of invalid pension“;

(ii) rule 49, for sub-rule (2), the following sub-rule shall be substituted, namely: –

“(2) Subject to the proviso to sub-rule (2) of rule 38, in the case of a Government servant retiring in accordance with the provisions of these rules after completing qualifying service of not less than ten years, the amount of pension shall be calculated at fifty per cent of emoluments or average emoluments, whichever is more beneficial to him, subject to a minimum of nine thousand rupees per mensem and maximum of one lakh twenty five thousand rupees per mensem.”

The said amendments having been placed before the SLP



(c) 20339/2011 Court, the Court was of the view that further clarification was required which has now been made by a clarificatory Office Memorandum bearing No. 21/01/2016- P&PW(F) dated 12.2.2019 in the following terms:-

“2. In this connection, it is clarified that the condition of qualifying service of ten years for grant of pension under Rule 49(2) of the CCS (Pension) Rules, 1972 shall not be applicable in the case of a Government servant retiring on Invalid Pension on account of any bodily or mental infirmity, under Rule 38. Accordingly, Invalid Pension at the rate of 50% of emoluments or average emoluments, whichever is more beneficial, subject to a minimum of nine thousand rupees per mensem and maximum of one lakh twenty five thousand rupees per mensem, shall be payable to a Government servant who retires under Rule 38 of CCS (Pension) Rules, 1972 even before completing a qualifying service of ten years.”

Having perused the aforesaid clarification, we are of the view that the matter now stands adequately covered and would be governed by provisions of the amended Rules 38 and 49 of the Central Civil Services (Pension) Rules, 1972, which would be applied to all eligible cases.

The special leave petition consequently shall stand disposed of in the above terms.”

11. Learned counsel for the petitioners has not been able to dispute the said settled principle of law.

12. Once, as per the settled principle of law settled in ***P.A. Thomas’s case (supra)***, it is well established that the invalid pension is admissible even prior to the completion of 10 years of qualifying service.



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Consequently, the contention raised by the petitioners to assail the order of the Tribunal granting the benefit of invalid pension in favour of respondent No.1 is devoid of merit and cannot be sustained.

13. No other argument has been raised.
14. Hence, in the absence of any perversity being pointed out in the impugned orders in these bunch of petitions either on the basis of the facts or the settled principle of law, no ground is made out for any interference by this Court in the facts and circumstances of the present case.
15. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

18.11.2025
Ali

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No