



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

109**CWP-27919-2025****Date of Decision: 04.11.2025****Union of India and others****....Petitioners****Versus****Ex Rect. Rajesh Kumar and another****....Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Ms. Sonia Sharma, Senior Panel Counsel
for the petitioners.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 15.10.2024 (Annexure P-1) passed by respondent No.2 – Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as ‘the Tribunal), by which, the benefit of invalid pension has been given to the officer concerned for the service he rendered for the period starting from 30.07.1998 to 06.10.1999, i.e. 01 year and 02 months of service.

2. Learned counsel for the petitioners submits that respondent No.1 was invalidated out of service on account of disability “*High Hypermetropia with Amblyopia both eyes*”, which was assessed at less than 20% and was held to be neither attributable to nor aggravated by the military service and still he has been granted the benefit of invalid pension despite the fact that the



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qualifying service period of 10 years was not completed by the officer concerned. i.e. respondent No.1, which is a mandatory condition enshrined in Regulation 198 of Pension Regulations for the Army – 1961, wherein it is categorically stated that the minimum period of qualifying service actually rendered and required for grant of invalid pension is 10 years, which aspect has been ignored by the Tribunal while granting the benefit.

3. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

4. It is conceded fact that at the time when respondent No. 1 was invalidated out from service on 06.10.1999 on medical grounds, he had already rendered 01 year and 02 months of service with the petitioners-Union of India. It is also a conceded fact that at the time when respondent No.1 joined the armed forces i.e. 30.07.1998 and was medically examined, he was not found suffering from any such disease on the basis of which, respondent No.1 was ultimately discharged from service on medical ground.

5. Admittedly, respondent No.1 had received the injury during *Kabadi* practice on 15.03.1999 which is an organised event, due to which injury, the respondent No.1 was invalidated out from service on 06.10.1999.

6. Further, as per the principle of settled by Hon'ble Supreme Court of India in **SLP(C) No.20330 of 2011** titled as ***Union of India and others vs. P.A.Thomas***, decided on 14.03.2019, any officer serving with the Military, who had undergone the medical examination at the time of selection and was found fit but subsequently, he/she has been discharged from service before completing the qualifying service, is entitled to the benefit of invalid pension irrespective of the length of service as the disease on the basis of which such



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officer is being discharged is attributable to the Military service. Relevant paragraphs of the 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 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-



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(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) in 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



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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.”

7. Learned counsel for the petitioners has not been able to dispute the said proposition of law having been settled in ***P.A.Thomas’s case (supra)***.

8. Keeping in view the facts and circumstances of the present case as well as the principle of law as settled in ***P.A.Thomas’s case (supra)*** once, at the time of selection, respondent No.1 was medically examined and was found fit in all respects and it was only at the time of discharge from service after rendering the service of 01 year and 02 months by respondent No. 1 with the petitioners-UOI, he was found suffering from “*High Hypermetropia with Amblyopia both eyes*’, that being so, as per the instructions issued by the petitioners that even qua the injury suffered during the service, which is not attributed to military service, invalid pension has to be granted.

9. No other arguments has been raised.

10. Hence, in the absence of any perversity being pointed out in the



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impugned order dated 15.10.2024 (Annexure P-1) 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.

11. Accordingly, the writ petition is dismissed.
12. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

November 04, 2025*Varinder*

Whether speaking/reasoned : Yes

Whether reportable : No