



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

CWP-36758-2019 (O&M)

Date of Decision : 06-08-2025

EX-LAC HARENDER KUMAR SANGWAN Petitioner
VERSUS

UNION OF INDIA AND OTHERS Respondent(s)

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

Present: Mr. Navdeep Singh, Advocate and
 Ms. Roopan Atwal, Advocate
 for the petitioner.

 Mr. Rohit Verma, Advocate
 For the respondent-Union of India.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner qua the order passed by the Armed Forces Tribunal Regional Bench, Chandigarh (hereinafter referred to as “Tribunal”) dated 24.01.2019, copy of which has been appended as Annexure P-1 is that the arrears of the disability pension have been restricted to three years prior to the filing of the Original Application (hereinafter referred to as “OA”) i.e. 27.02.2018 (Annexure P-2) by noticing a fact that the petitioner has approached the Court after six years of his release from service on 25.12.2012, which is causing prejudice to the petitioner.

2. Learned counsel for the petitioner submit that after the release from service on 25.12.2012, the petitioner had raised the grievance before the authorities concerned and it is only after the same was declined till the 2nd appeal by the respondents vide order dated 29.11.2016, the petitioner had

approached the Tribunal by filing an OA on 27.02.2018 (Annexure P-2) which is within the time frame hence, in the facts and circumstances of this case, there was no delay of six years as being pointed out so as to restrict the arrears to 3 years prior to the filing of the OA.

3. Learned counsel for the respondents on the other hand submits that where there is a delay in approaching the Court, the relief has to be restricted.

4. We have heard the learned counsel for the parties and have gone through the records of the present case with their able assistance.

5. The relief i.e. the arrears accrued on grant of the benefit of disability pension are restricted to 3 years prior to the filing of OA by the Tribunal hence, said restriction is to be based upon the facts and circumstances of the present case.

6. In the present case, the disability pension is being claimed by the employee concerned, which was allowed in his favour, which grant of benefit is not under challenge by the respondents and same stands accepted and implemented.

7. A bare perusal of the factual aspect brought before this Court as well as before the AFT is that the claim raised by the petitioner herein for the grant of benefit of disability pension was rejected on 30.01.2013 against which, an appeal dated 10.05.2013 was preferred by the petitioner which was rejected on 03.06.2014 further second appeal was preferred on 20.11.2014 which was also rejected on 29.11.2016 and within a period of two years, the petitioner had approached the Tribunal by filing an OA on 27.02.2018 seeking the relief of disability pension.

8. Keeping in view these facts, there is not much delay to deny the benefit of arrears of disability pension.

9. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.3086 of 2012*** titled "***Balbir Singh Vs. Union of India and ors.***", decided on 08.04.2016, wherein, the question was with regard to delay in filing the claim so as to deny the benefit of arrears of disability pension, Hon'ble the Supreme Court of India held as under:-

“XXX....

5. The Tribunal was therefore justified in restoring the service element of the pension in favour of the appellant. The question however is whether the arrears could have been restricted to three years only. The Tribunal in our view need not have done so. That is because the appellant had a right to receive service element of the pension in light of Regulation 186 (supra), which right was valuable and ought to have been protected.

6. We accordingly allow this appeal and modify the order passed by the Tribunal with the direction that the appellant shall be paid service element of the pension with effect from the date the said payment was stopped by the respondents. We however grant to the respondents three months time to calculate and release the arrears in favour of the appellant. In case the needful is not done within the time stipulated, the arrears payable to the appellant shall start earning interest at the rate of 9% from the date the period of three months expires till actual payment of the amount.”

10. The reason given by the Tribunal vide order dated 24.01.2019 (Annexure P-1) is that there is a delay in approaching the Tribunal, is incorrect. Delay of 6 years being attributable to the petitioner is not proved from the records and is rather perverse to the facts noted hereinbefore

11. It is a conceded fact that the first representation of the petitioner was filed on 31.01.2013. Keeping in view the fact that the petitioner was discharged from Air Force on 25.12.2012 hence, there is no delay in raising

the grievance before the authorities concerned and the said aspect has not been dealt with in the correct manner while recording the findings as mentioned in Paragraph 11 of the order passed by the Tribunal dated 24.01.2019 (Annexure P-1) vide which the arrears accrued were restricted to 3 years prior to the filing of the OA hence, the said findings are incorrect.

12. Keeping in view the material facts brought on record and the order of the Tribunal dated 24.01.2019 (Annexure P-1), the same is modified that the petitioner will also be entitled for the benefit of arrears of disability pension from the date he was discharged i.e. on 25.12.2012 and not from three years prior to the Original Application (OA) i.e. 27.02.2018.

13. Present petition is allowed.

14. Let the said order be complied within a period of **8 weeks** from the receipt of copy of this order.

15. Pending application, if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

06-08-2025
Sapna Goyal

(VIKAS SURI)
JUDGE

Whether speaking: YES
Whether reportable: NO