



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-32075-2024
Decided on:18.11.2025

GURMUKH SINGH

....Petitioner

Versus

UNION OF INDIA AND OTHERS

.... Respondents

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

PRESENT: Mr. Sandeep Bansal, Advocate and
Mr. Sameer Kumar, Advocate
for the petitioner.

Mr. Rohit Verma, Sr. Panel Counsel
for respondents No.1 to 4.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 20.04.2022 (Annexure P-1) passed by respondent No.5-Armed Forces Tribunal, Regional Bench, Chandigarh, (in short, 'the Tribunal') only qua the aspect that the arrear has been restricted for a period of three years prior to the date of filing the original application i.e. 10.11.2017.

2. Learned counsel for the petitioner submits that the benefit of arrears should have been granted for the entire period as, it cannot be said that the petitioner was not vigilant keeping in view the facts and circumstances of the present case. Learned counsel for the petitioner further submits that at the time when the petitioner was invalidated out from service on 31.03.1996, his disability of 'Osteoarthritis both knees' was assessed at



20% and was held to be aggravated by the military service but thereafter, he was not given the benefit of disability pension which grievance was agitated before the Civil Court and the Civil Court passed an order dated 08.03.2006 allowing the benefit of disability pension @ 20% for two years w.e.f. 01.04.1996 to 10.01.1998. Thereafter, a Resurvey Medical Board (RSMB) was constituted and the same percentage of disability was maintained for five years and accordingly the petitioner was granted disability pension uptill 10.07.2003. Further, RSMB held on 11.07.2003, allegedly reduced the same to 11-14% and the disability element in the pension was stopped. Learned counsel for the petitioner further submits that as the said issue remained pending before the Civil Court and ultimately, the Tribunal was constituted, the petitioner approached the Tribunal for the grant of benefit which though has been granted vide impugned order dated 20.04.2022 w.e.f. 25.06.2014 but the arrears of disability pension w.e.f. 11.07.2003 to 24.06.2014 was denied, which was incorrect.

3. Learned counsel for the respondents submits that though, it is a conceded fact that the benefit of disability pension was assessed and granted by the Civil Court vide order dated 08.03.2006 keeping in view the fact that disability of 20% was attributable to and aggravated by the military service but as the same was only for a period of two years and thereafter, the disability was reduced to less than 20%, hence, the benefit of disability pension could not be granted and it was ultimately keeping in view the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.5605 of 2010, titled as "Sukhwinder Singh Vs. UOI and others" decided on 25.06.2014**, the benefit has been extended by the learned Tribunal. Hence, restricting the arrears in the facts and circumstances of the present case is



perfectly valid.

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

5. It is not a case that the writ petitioner did not agitate his claim after the lapse of two years of the grant of disability pension by the Civil court. He had approached the Civil Court which allowed the benefit upto year 2003 in his favour which issue remained pending upto year 2006 before the competent Court of law. Thereafter, keeping in view the fact that the judgment in **Sukhwinder Singh's case (supra)** has been pronounced that wherever the disability pension was granted and subsequently the disability has been reduced, the same has to be presumed at minimum 20% so as to continue the disability pension claim as raised by the respondents. That being so, there is no default on the part of the petitioner not claiming the benefit for which he was entitled for or agitating the same as the petitioner remained before the Court (either before the Civil Court or before the Tribunal during the period in question). Hence, restricting of the arrears only for a period of three years prior to approaching the Tribunal, in the facts and circumstances of the present case is not correct.

6. Even otherwise, as per the judgment of Hon'ble Supreme Court of India in case titled as '**Balbir Singh Vs. Union of India and Others Civil Appeal No. 3086 of 2012 decided on 08.04.2016**', the benefit of arrears cannot be restricted and the respondents cannot be allowed to take the benefit of their own wrong. The relevant paragraph of the said judgment is extracted hereinafter:

“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. The fact that the appellant had approached the Tribunal for redress belatedly was in the peculiar circumstances of the case, no reason for the Tribunal to reduce the payment of arrears to three years only.”

7. Keeping in view the facts and circumstances of the case, the order dated 20.04.2022 (Annexure P-1) passed by the Tribunal restricting the arrear only for a period of three years is not correct and the same is set aside. The petitioner is held entitled for the disability pension continuously for the period it has not been paid starting from the date when the same was extended to the petitioner alongwith arrears and interest @ 8% P.A.
8. Accordingly, the present writ petition is allowed.
9. Pending misc application (s), if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

18.11.2025
Priyanka Thakur

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