



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105+256

CM-5942-CWP-2026 in/&
CWP-636-2025 (O&M)
Date of Decision :12.05.2026

Sandeep Singh

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Ashok Bhardwaj, Advocate for the petitioner.

Mr. Rohit Verma, Senior Panel counsel for respondent-UOI.

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Harsimran Singh Sethi, J. (Oral)

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1. Present application has been filed for placing on record reply filed on behalf of respondents No.1 to 3.

2. As prayed for, application is allowed.

3. Reply filed on behalf of respondents No.1 to 3 is taken on record.

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4. In the present petition, the challenge is to the impugned order dated 07.10.2024 (Annexure P/4) passed by the respondent No.4-Armed Forces Tribunal, Chandigarh Bench (hereinafter referred to as 'the Tribunal) by which, the benefit of disability pension sought by the petitioner, has been declined.

2. Learned counsel for the petitioner submits that though, the relief claimed by the petitioner was for the grant of disability pension but in the



facts and circumstances of the present case, the petitioner will be satisfied in case his claim for the grant of benefit of invalid pension is considered and decided.

3. Learned counsel for the respondent-UOI submits that the view taken by the Medical Board is that at the time when the petitioner was recruited in the Army, the ailment being suffered by the petitioner escaped notice of the Medical Board and thereafter, the same was detected along with the fact that his father suffered from same disease hence, the disability incurred by petitioner cannot be treated as attributable to or aggravated by military service.

4. Learned counsel for respondents submits that the petitioner cannot be held entitled to said benefit as he was only a recruit and being a recruit, said benefit would not be admissible to him.

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

6. On being asked whether, the benefit of invalid pension, even if, the disability suffered is not assessed to be attributable to or aggravated by military service, the said benefit would be admissible or not, learned counsel for the respondent-UOI has not been able to deny the said fact.

7. Further, in ***Civil Appeal No. 16438-16440 of 2017 titled as Ex. Rect. Mithlesh Kumar vs. Union of India and others, decided on 27.10.2017***, the benefit of invalid pension has been granted to a recruit as well by the Hon'ble Supreme Court of India by taking note of Pension Regulations for Army, the arguments raised by the learned counsel for the respondents are contrary to the judgment passed by the Hon'ble Supreme



Court of India in above noted case.

8. 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 invalided 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 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 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) 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 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.”



9. Further, another argument raised by the learned counsel for the respondents is that benefit of invalid pension can only be granted prospectively from 04.01.2019 onwards keeping in view the instruction dated 16.07.2020 issued by Government of India whereas, the case of respondent No.1 related to a period prior to that.

10. Qua the said argument, it may be noticed that a Coordinate Bench of this Court in ***CWP No.28442 of 2023 titled as Union of India and others vs. Sandeep Kumar and another, decided on 07.01.2025*** has already set aside the said condition imposed by the Government of India that the grant of invalid pension will be prospective in nature starting from 04.01.2019 onwards keeping in view the judgment in ***P.A. Thomas's case (supra)***, which has also been noticed by the Coordinate Bench of this Court and held that Soldiers invalidated from service prior to 2019 are also entitled for the benefit of invalid pension.

11. Keeping in view the above, the respondents are directed to consider the claim of the petitioner for the grant of benefit of invalid pension keeping in view the observations made hereinbefore and pass an appropriate speaking order within a period of 08 weeks from the date of receipt of copy of this order.

12. Consequently, the impugned order dated 07.10.2024 (Annexure P/4) passed by the Tribunal is modified and the present petition is disposed of in above terms.

13. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

May 12, 2026
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Whether speaking/reasoned : Yes
Whether reportable : No