



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

**111****CWP-6618-2026****Date of Decision: 06.03.2026****Union of India and others****....Petitioners****Versus****Ex Recruit Jagdeep and another****....Respondents**

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

----

**Present:** Ms. Neha Jaggi, Senior Panel Counsel  
for the petitioners.

\*\*\*\*\*

**Harsimran Singh Sethi, J. (Oral)**

1. In the present petition, the challenge is to the impugned order dated 21.02.2025 (Annexure P-1) passed by respondent No.2 – The Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as ‘the Tribunal), by which respondent No.1 has been held to be entitled for grant of invalid pension from the day following the date of his invalidment.

***Carcinoma and Urinary Blader (Stage-IV A)***

2. Learned counsel for the petitioners submits that once respondent No.1 did not have minimum 10 years of service, the benefit of invalid pension could not have been granted. The learned counsel for the petitioner further submits that the Tribunal has even wrongly granted the benefit of life time arrears of invalid pension to respondent No.1. Hence, the grant of invalid pension along with life time arrears, is incorrect.

3. We have heard learned counsel for the petitioners and have gone



CWP-6618-2026

-: 2 :-

through the case file with her able assistance.

4. 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 of service 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 (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:*



-: 3 :-

*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.”*

5. 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. 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.

6. With regard to the grievance of the petitioners qua grant of life time arrears of invalid pension to respondent No.1 for the period starting from 23.03.2019 to 05.12.2020, it shall be noted that as per the settled principle of



law settled by the Hon'ble Supreme Court of India in Civil Appeal No.3086 of 2012 titled "**Balbair Singh vs. Union of India and others**", decided on 08.04.2016, wherein also the question for consideration was regarding limiting the benefits of arrears admissible for a period of three years, wherein the benefit of arrears for the entire period, as was being claimed by the claimant was granted to the claimant, the Hon'ble Supreme Court of India held as under:-

*"XXX....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.*

*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."*

7. Learned counsel for the petitioners has not been able to dispute the said proposition of law having been settled by the Hon'ble Supreme Court of India in **P.A. Thomas's case (supra)** and **Balbair Singh's case (supra)**.

8. Keeping in view the facts and circumstances of the present case as well as settled principle of law settled in **P.A. Thomas's case (supra)** and **Balbair Singh's case (supra)**, the benefit of invalid pension from 23.03.2019 to 05.12.2020 granted to respondent No.1 by the Tribunal along with benefit

**CWP-6618-2026**

-: 6 :-

of life time arrears, is in accordance to law and has been rightly granted keeping in view the facts and circumstances of the present case.

9. No other arguments have been raised.

10. Keeping in view the totality of facts and circumstances and as the learned counsel for the petitioners has not been able to prove that the impugned order dated 21.02.2025 (Annexure P-1) is perverse, 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 application(s), if any, stands disposed of.

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

**(VIKAS SURI)**  
**JUDGE**

**March 06, 2026***Varinder*

Whether speaking/reasoned : Yes

Whether reportable : No