



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 09.03.2026

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CWP-6962-2026

UNION OF INDIA AND ANR

...Petitioners

Versus

NO87982 EX AG ERA 4 NAVY JOGINDER PAUL HANDA AND ANR

...Respondents

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CWP-7005-2026

UNION OF INDIA AND ANR

...Petitioners

Versus

SMT SUMA DEVI AND ANR

...Respondents

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CWP-7013-2026

UNION OF INDIA AND ANR

...Petitioners

Versus

EX RECT NARESH KUMAR AND ANR

...Respondents

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

Present:- Mr. Narender Kumar Vashisht, Senior Panel Counsel,
for the petitioners (in CWP-6962-2026).

Dr. Anju Sharma, Senior Panel Counsel,
for the petitioners (in CWP-7005-2026) (through V.C.).

Mr. Shubham Thakur, Senior Panel Counsel,
for the petitioners (in CWP-7013-2026).

HARSIMRAN SINGH SETHI, J. (ORAL)

1. By this order, we propose to dispose of aforementioned three writ petitions i.e. CWP-6962-2026, CWP-7005-2026 and CWP-7013-2026



by a common order as the issue involved in these writ petitions is the same.

With the consent of learned counsel for the parties and for the sake of convenience, facts are being taken from CWP-6962-2026.

2. In the present petition, the challenge is to the impugned order dated 09.01.2023 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which, respondent No.1 has been allowed the benefit of invalid pension from the day next to the date of discharge from service i.e. 17.07.1971 for life.

2. Learned counsel for the petitioners submits that once respondent No.1 did not render minimum 10 years of service, which is a condition precedent for grant of invalid pension, the benefit of invalid pension could not have been granted. Further, the Tribunal has even wrongly granted the benefit of life time arrears of invalid pension from 17.07.1971 for life. Hence, the grant of invalid pension along with life time arrears to respondent No.1 vide impugned order dated 09.01.2023 (Annexure P-1) is incorrect.

3. Learned counsel for the petitioners further places reliance upon the instructions dated 16.07.2020 to contend that though the requirement of 10 years in service for grant of invalid pension has been done away with, but the said instructions are to be made applicable only prospectively, hence, even otherwise, since respondent No.1 retired from service almost five decades prior to issuance of said instructions, he would not be entitled to



benefit of invalid pension.

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

5. The first grievance which has been raised by learned counsel for petitioners so as to challenge the grant of invalid pension is that minimum service period required of 10 years has not been rendered by respondent No.1, it shall be noticed that 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 still 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:

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.”

6. Once, as per the settled principle of law settled in *P.A. Thomas's* case (supra), it is well established that the benefit of 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.

7. The question of the applicability of the instructions dated 16.07.2020, which have been made operative from 04.01.2019, has been raised before this Court. The said issue has already been considered by the Coordinate Bench of this Court in CWP No.28442 of 2023 decided on 07.01.2025 titled '**Union of India and others Vs. Sandeep Kumar and another**' and the restriction impose in the instructions that invalid pension will be given only to the officers, who are invalidated out after 2019 has already been set aside. Learned counsel for the petitioners has not been able to rebut the said factual position. Once, the restriction imposed that the invalid pension will be granted only to the officers invalidated after 2019 has already been set aside, the grant of benefit in favour of the respondent by the Tribunal is perfectly valid and legal and the grievance raised in the present writ petition by the petitioners has already been rejected by the Coordinate Bench while passing the order dated 07.01.2025 in CWP No.28442 of 2023 titled as '**Union of India and others Vs. Sandeep Kumar and another**'.

8. Further, it is not in dispute that in case the instructions dated 16.07.2020 are made applicable, the benefit extended to the respondents is in consonance with the instructions. That being so, the argument raised that the instructions dated 16.07.2020 have been made applicable retrospectively cannot be accepted in view of the facts and circumstances mentioned hereinbefore.

9. 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).

10. 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), the benefit of invalid pension from 17.07.1971 granted to respondent No.1 by the Tribunal along with benefit 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.

12. No other argument has been raised.

13. No ground is made out for any interference by this Court in the order dated 09.01.2023 (Annexure P-1) in CWP-6962-2026; order dated 08.12.2023 (Annexure P-1) in CWP-7005-2026; and order dated 03.07.2023 (Annexure P-1) in CWP-7013-2026 passed by the Tribunal. The present writ petitions are dismissed accordingly.

14. Photocopy of this order be placed on the files of connected cases.

(**HARSIMRAN SINGH SETHI**)
JUDGE

(**VIKAS SURI**)
JUDGE

March 09, 2026
harish

Whether speaking/reasoned	Yes
Whether reportable	No