

**CWP-7091-2026****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(108)****CWP-7091-2026****Date of Decision : March 10, 2026****Union of India and others****.. Petitioners****Versus****Ex. HAV Hardev Singh and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Dharm Chand Mittal, Sr. Panel Counsel, for the petitioners.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 09.10.2024 (Annexure P-1) passed by respondent No.1- the Armed Forces Tribunal, Chandigarh Bench (hereinafter referred to as 'the Tribunal) by which, respondent No.1 has been granted the benefit of War Injury Pension keeping in view the injury suffered by him in '*Operation Rakshak*' as well as the order dated 03.09.2025 (Annexure P-2) by which, the review petition filed by the petitioners against said order has been dismissed.

2. Learned counsel appearing on behalf of the petitioners argues that the benefit of War Injury Pension could not have been granted to respondent No.1 from the date of retirement but the same could have only been given from the year 2006 keeping in view the instructions which have been issued on 19.05.2017 by Union of India, which fact has been ignored by the Tribunal not only while passing the order dated 09.10.2024 (Annexure P-1) but also while dismissing the review application on 03.09.2025.



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3. We have heard learned counsel for the petitioners and have gone through the record with his able assistance.

4. It may be noticed that the instructions with regard to the grant of War Injury Pension were issued on 31.01.2001 by which, personnel who have suffered injury in certain categories stipulated therein were made eligible for the grant of said pension. In the said instructions dated 31.01.2001, any injury suffered by an army personnel while serving in a specially notified operation by the Government from time to time, the benefit of War Injury Pension is to be granted. The relevant portion of the instructions dated 31.01.2001 is as under:-

“ Category E

Death or disability arising as a result of:-

(a) to (h) xxxx xxxx xxxx

(i) Operations specially notified by the Government from time to time.”

5. While applying the said instructions, in the facts and circumstances of the present case that respondent No.1 suffered a gun shot injury while working in an ‘Operation Rakshak’. That being so, his claim qua grant of War Injury Pension is covered by the instructions dated 31.01.2001. Once, the fact show that under the instructions dated 31.01.2001, the benefit of War Injury Pension was required to be given to respondent No.1, merely an explanation given by Union of India and that too 16 years later will not take away the right to claim the said benefit.

6. Learned counsel for the petitioners argues that the instructions dated 31.01.2001 will not be applicable in the present case on the ground that after suffering the injury of ‘Gun Shot Wound Knee (LT)’, respondent

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No.1 sought discharge from service on compassionate ground and he was not invalidated out of service.

7. On being asked, whether keeping in view the injury suffered, respondent No.1 could have continued in service or not, learned counsel for the petitioners has not been able to substantiate that he could have continued in service despite suffering from such injury. Merely that upon suffering from such injuries, rather than being invalidated out of service, he was compassionately discharged from service, will not take away his right to claim the benefit under the instructions dated 31.01.2001 and an officer who has sustained the injury while serving Indian Forces, should be dealt with in a manner required rather than pin pointing to irrelevant objections to deny the benefit.

8. At this stage, learned counsel for the petitioners submits that the benefit of arrears should be restricted for a period of three years prior to the filing of the original application.

9. It may be noticed that the grant of pension is the duty of the State being a welfare State. The State is not required to argue qua the aspect that entitled benefit should be claimed by the claimant rather than being released by the welfare State, keeping in view the settled principle of law that pension partakes the character of property and hence cannot be withheld or reduced.

10. With regard to the grievance of petitioners qua grant of benefit of arrears for whole of the intervening period, 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 others"***, decided on

08.04.2016, wherein also the question for consideration was regarding limiting



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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.”

11. Even otherwise, while dealing with issued with regard to grant of arrears on account of payment of entitled pension, the Hon'ble Supreme Court of India in ***Civil Appeal No. 6820-2824 of 2018 titled as Union of India through its Secretary and others vs. SGT Girish Kumar and others etc, decided on 12.02.2026*** has held that whenever the entitlement is proved and that too qua pensionary benefits, the benefit of qua such pension has to be extended from the date of retirement.

12. In the present case, the entitled pension was to be given from the day one when respondent No.1 got entitled for the same that is from his date of retirement which was not granted to him and therefore, restricting

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the arrears, in the facts and circumstances of the present case and that too on the asking of the welfare State is not made out.

13. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

14. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

March 10, 2026
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No