



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

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CWP-8796-2026

Date of Decision: 23.03.2026

Union of India and others

....Petitioners

Versus

Ex. Sepoy Dalip Singh and another

...Respondents

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

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

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 14.05.2025 (Annexure P-3) passed by respondent No.2 – 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.

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 has brought to the notice of this Court the instructions dated 16.07.2020, to contend that the said instructions are to be applied in a prospective manner only, whereas in the present case, they have been applied retrospectively so as to grant benefit of invalid pension to respondent No.1.

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



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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:

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. It may be noticed that, 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 dated 14.05.2025 (Annexure P-3) of the Tribunal granting the benefit of invalid pension in favour of respondent No.1 is devoid of merit and cannot be sustained.

6. 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



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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 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 individuals invalidated from service prior to 2019 are also entitled for the benefit of invalid pension.

7. Further, another argument was putforth by the learned counsel for the petitioners that the disability is neither attributable to nor aggravated by military service, and therefore, the grant of benefit in favour of respondent No.1 is incorrect. On being asked whether or not any such rule exists which prohibits the grant of invalid pension in such cases, learned counsel for the petitioners has not been able to show any such rule.

8. Moreover, as per the contention of the learned counsel for the petitioners that respondent No.1 being a recruit could not have been granted the benefit of invalid pension, it should be noted that the arguments which have been raised by the learned counsel for the petitioners have already been dealt with in earlier judgments by the Hon'ble Supreme Court of India wherein similarly situated recruits were held entitled to the benefit of invalid pension.

9. It may be further noticed that the benefit of invalid pension has been granted to a recruit by the Hon'ble Supreme Court of India by taking note of Pension Regulations for Army in **Civil Appeal No.16438-16440 of**



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2017 titled as *Ex. Rect. Mithlesh Kumar vs. Union of India and others*, decided on 27.10.2017. Therefore, both the arguments raised by the learned counsel for the petitioners are contrary to the judgment passed by the Hon'ble Supreme Court of India in above noted case.

10. Learned counsel for the petitioners-UOI has not been able to rebut the said settled principles of law as well as the facts mentioned hereinbefore.

11. No other arguments have been raised.

12. Hence, in the absence of any perversity being pointed out in the impugned order dated 14.05.2025 (Annexure P-3) 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.

13. Accordingly, the writ petition is dismissed.

14. Pending application(s), if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

March 23, 2026

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No