



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

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CWP-10420-2025 (O&M)

Date of Decision: 13.05.2026

UNION OF INDIA AND OTHERS

.....Petitioners

Versus

SITA DEVI AND ANOTHER

.....Respondents

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

Present: Ms. Geeta Singhwal, Advocate,
Senior Panel Counsel
for the petitioners-UOI.

Mr. Akash Kundu, Advocate,
for respondent No.1.

Service upon respondent No.2 is dispensed with
vide order dated 09.09.2025.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 05.10.2021 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal'), by which, the benefit of ordinary family pension has been granted in favour of respondent No.1 in respect of the service rendered by her late husband-Rattan Singh.

2. Learned counsel appearing on behalf of the petitioners argues that the husband of respondent No.1 was enrolled in the Indian Army on 28.10.1988 and was discharged from service on 30.06.1994. The said discharge was on the basis of an application submitted by the late husband of



respondent No.1 that he is not willing to continue in service due to domestic problems being faced by him including the family dispute qua the land owned by the family. Learned counsel for the petitioners submits that anybody, who is being discharged from service, has to undergo a medical examination compulsorily and keeping in view that shoulder of respondent No.1 got dislocated, while in service, disability was assessed, but, the said disability was not to such an extent so as to discharge the husband of respondent No.1 from service or to put him in a low medical category. Learned counsel for the petitioners submits that after his discharge from service, no claim was raised by husband of respondent No.1 and ultimately, for the very first time, respondent No.1, on behalf of her husband, filed an Original Application in the year 2019 after a period of 25 years of discharge of her husband from service, claiming the benefit of family pension and that too after the death of her husband, who unfortunately died on 06.05.2016. Learned counsel for the petitioners further submits that once the discharge from service was on the request made by husband of respondent No.1 and on the date of discharge, he was not assessed to be in the low medical category, hence, the grant of disability pension initially to the husband of respondent No.1 and thereafter, special ordinary pension to respondent No.1 is incorrect and the same cannot be upheld and therefore, the impugned order passed by the Tribunal may kindly be set aside.

3. Learned counsel appearing on behalf of respondent No.1 does not dispute the said fact but submits that once at the time of discharge, in a medical examination, disability of dislocated shoulder being suffered by husband of respondent No.1 had come on record, the same has to be treated as valid for the grant of disability pension and to underpin said arrangement reliance is being placed upon the Regulation 173 of the Pension Regulations



for the Army, 1961 (for short, 'the Pension Regulation, 1961'). Learned counsel for respondent No.1 has placed reliance upon the judgment of the Hon'ble Supreme Court of India in ***Union of India and another Versus Mahavir Singh Narwal (Dead) by LRs, SLP (C) No.24171 of 2004, decided on 05.05.2004.***

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

5. Once, the facts mentioned hereinbefore are not in dispute, it is clear that the discharge of the husband of respondent No.1 from Army was not due to him being placed in low medical category or due to the fact that he could not have performed the duties due to disability suffered rather, the same was due to his own request that he had to attend to some family circumstances, due to which, he cannot perform the duty, coupled with the fact that till the time of discharge he had only worked for a period of approximately six years with the Army, no benefit of disability pension could have been granted. A dislocated shoulder cannot be said to have caused any hinderance in performing the duties or even to be treated under the low medical category, hence, said disability suffered by husband of respondent No.1 cannot be treated as a ground to grant the disability pension to the husband of respondent No.1.

6. Learned counsel for respondent No.1 has placed reliance upon the Regulation 173 of the Pension Regulation, 1961. The same reproduced as under:-

"173. Unless otherwise specifically provided, a disability pension may be granted to an individual who is invalidated from service on account of disability which is attributable to or aggravated by military service and is assessed at 20 per cent or over.



The question whether a disability is attributable to or aggravated by military service shall be determined under the rules in Appendix II."

7. A bare perusal of the above would show that the said regulation is only applicable where, a personnel is discharged from service under a low medical category. In the present case, the discharge of the husband of respondent No.1 from Army was not under the low medical category rather the same was on his own request.

8. Further, it may be noticed that the late husband of respondent No.1 never raised any grievance qua non-grant of any such benefit during his lifetime. It was respondent No.1 who after the death of her husband raised a claim for grant of benefit of family pension. Once, no pension was admissible to the late husband of respondent No.1, the grant of family pension even otherwise, could not have been granted.

9. The judgment which is being relied upon by the learned counsel for respondent No.1 in ***Mahavir Singh Narwal's case*** (supra) would not come to rescue of respondent No.1, as in the said judgment though it has been held that benefit of disability pension is admissible to a person who is discharged from service at his own request, but such a personnel should be in "low medical category" for him to be entitled for the same. In the present case, though respondent No.1 was discharged from service at his own request, but since he was not assessed to be in low medical category, benefit of disability pension cannot be granted in favour of respondent No.1.

10. Moreover, in the facts and circumstances of the present case, keeping in view the regulation 173 of the Pension Regulation, 1961, which has been made applicable for the grant of disability pension, no conditions imposed therein have been fulfilled by the late husband of respondent No.1.



Therefore, the impugned order passed by the Tribunal is perverse not only on the facts but even qua the regulation relating to the grant of family pension, hence, the same cannot be sustained and is accordingly set aside.

- 11. The present petition is allowed in the above terms.
- 12. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

13.05.2026
Sandeep

Whether Speaking/Reasoned : Yes
Whether Reportable : No