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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-11131-2026 (O&M)

Date of Decision :10.04.2026

Union of India and others

..Petitioners

Versus

Ex. Rect. Rakesh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDAPresent: Ms. Neha Jain, Senior Panel Counsel
for the petitioners-UOI.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 24.02.2023 (Annexure P-4) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as, 'the Tribunal') by which, respondent No.1 has been allowed the benefit of invalid pension from the day next to the date of his discharge from service i.e. 09.09.2014 for life.

2. Learned counsel for the petitioners places reliance upon the report of medical examination of the respondent No.1 to hold that though the disability of 'Knock Knee' for life has been found in respondent No.1, but the same has been treated as 'neither attributable to nor aggravated by the military service' hence, the grant of benefit of invalid pension to respondent No. 1 by placing reliance upon the judgment passed by the three



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Judge Bench of Hon'ble Supreme Court of India in *SLP (s)-20330/2011 titled as Union of India and others versus P. A. Thomas* is incorrect.

3. Learned counsel for the petitioners further submits that once, the report of the Medical Board clearly states that the disability of respondent No.1 is neither attributable to nor aggravated by military service, the grant of benefit of invalid pension to respondent No. 1 is incorrect, and the facts and circumstances in the present case has not been appreciated in correct aspect by the Tribunal while passing the impugned order dated 24.02.2023 (Annexure P-4).

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

5. It is conceded fact that at the time when respondent No. 1 was invalidated out from service on 09.09.2014 on medical grounds, he had already rendered 09 months of service with the petitioner-Union of India. It is also a conceded fact that at the time when respondent No. 1 joined the armed forces i.e. 30.12.2013 he was medically examined and was not found to be suffering from any such disease on the basis of which, respondent No. 1 was ultimately invalidated out from service on medical ground.

6. As per the settled principle of law settled by the Hon'ble Supreme Court of India in *P. A. Thomas (supra)* even if an officer is invalidated out 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.”

7. Hence, 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.

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 **Civil Appeal No. 16438-16440 of 2017 titled as Ex. Rect. Mithlesh Kumar vs. Union of India and others, decided on 27.10.2017,** where similarly situated recruits were held entitled for the benefit of invalid pension by taking note of Pension Regulations for Army.

9. Accordingly, both the arguments raised by the learned counsel for the petitioners are contrary to the principle of law settled by the Hon’ble Supreme Court of India in above noted case.

10. Learned counsel for the petitioners has not been able to dispute the said proposition of law having been settled in **P. A. Thomas’s case (supra)** as well as in **Ex. Rect. Mithlesh Kumar (supra)**.

11. Keeping in view the facts and circumstances of the present case as well as the settled principle of law as settled in **P. A. Thomas’s case (supra)** and **Ex. Rect. Mithlesh Kumar (supra)**, once, at the time of selection, respondent No. 1 was medically examined and was found fit in all respects and it was only at the time of discharge from service after rendering

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09 months of service by respondent No. 1 with the petitioner- UOI, he was found suffering from 'Knock Knee' for life. That being so, the said disease has to be attributed to the military service and the report of medical board cannot take away the right of respondent No.1 to claim the benefit of invalid pension in such circumstances.

12. No other arguments has been raised.

13. Hence, in the absence of any perversity being pointed out in the impugned order dated 24.02.2023 (Annexure P-4) 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.

14. Accordingly, the writ petition is dismissed.

15. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

April 10, 2026

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Whether speaking/reasoned : Yes

Whether reportable : No