

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

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CWP-13239-2026

DATE OF DECISION: 30.04.2026

UNION OF INDIA AND OTHERS**...Petitioners****Versus****SMT MANJIT KAUR AND ANOTHER****..Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Ms. Bhavana Datta, Advocate for the petitioners-UOI.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the challenge is to the order dated 01.05.2023 (Annexure P-1) passed by the Armed Force Tribunal, Regional Bench Chandigarh (for short – ‘the Tribunal’) in OA No.2203 of 2017 by which, the benefit of pension in respect the service rendered by the late husband of the respondent No.1 has been directed to be released on the basis of the actual pay drawn by the personnel at the time of retirement and not on the basis of the average of the last 10 months service prior to the discharge.

2. Learned counsel for the petitioners submits that the said benefit which has been given is incorrect.

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

4. As per the order passed by the Tribunal, the policy was made in February 2001 by the Union of India that instead of the average of the last 10 months service to be taken into account for calculating the pensionary benefits, the actual last salary drawn will be taken into account for fixing the pensionary benefits.



5. In the present case, the husband of respondent No.1 retired on 31.05.2001 which is after the issuance of such policy in February 2001 hence, the finding given by the Tribunal that the benefit of the last pay drawn is to be taken for the purpose of fixing the pensionary benefits of the late husband of respondent No.1 is as per the policy issued by the Union of India, which fact has gone unrebutted even during the hearing.

6. Even otherwise, a perusal of the impugned order would show that the Union of India in the reply has not raised any objection with regard to the grant of the benefit claimed by respondent No.1 and the only objection raised was with regard to the restriction of the arrears qua the benefits admissible.

Qua the said argument, it may be noticed that in view of judgment passed by the Hon'ble Supreme Court of India in ***Civil Appeal Nos. 6820-6824 of 2018 titled as Union of India through Secretary and others vs. SGT Girish Kumar and others***, decided on 12.02.2026, it has been settled that the benefit of arrears of disability pension, including the benefit of 'broad banding', cannot be restricted to three years prior to the filing of the application before the Tribunal. The relevant paragraphs of the judgment are reproduced hereunder:-

"15. Pension, as authoritatively settled by this Court, is neither a bounty nor an ex gratia payment dependent upon the grace of the State. It is a deferred portion of compensation for past service and, upon fulfilment of the governing conditions, matures into a vested and enforceable right. Pensionary entitlements, therefore, partake the character of property, and cannot be withheld, reduced, or extinguished except by authority nation. The disability pension is not a matter of largesse, but a recognition of sacrifice made in service of the nation.

16. The Union of India, as a model employer, is expected to act with fairness, consistency and even-handedness in the administration of benefits conferred upon those who have served the nation. When a benefit is recognised by a policy and affirmed by judicial pronouncement, its application cannot be selective or uneven. The judgment rendered by a



three-Judge Bench of this Court in Ram Avtar's case (supra) was a judgment in rem and, therefore, the benefit of same ought to have been extended by Union of India to the eligible ex- servicemen instead of requiring them to file original applications before the Tribunal seeking their entitlement.

17. It is pertinent to note that the Union of India itself had taken a conscious policy decision to pay arrears of disability pension to *D.S. Nakara v Union of India*, 1983 AIR SC 130, *State of Jharkhand & Ors. v. Jitendra Kumar Srivastava & Anr.*, AIR 2013 SC 3383, *Vijay Kumar v. Central Bank of India & Ors.*, 2025 INSC 848 all eligible ex-servicemen from 01.01.1996 or 01.01.2006, as the case may be. This position is clearly borne out from paragraph 2 of the letter dated 15.09.2014 issued by Deputy Secretary (Pension), Government of India, to Chiefs of Army, Navy and Air Force. The similar intent is also evident from paras 3 and 6 of the letter dated 10.10.2018 issued by Director, Department of Pension and Pensioner's Welfare, Government of India, wherein civilian Medical Officers were granted revised disability benefit from 01.01.1996 or 01.01.2006.

18. The aforesaid communications reflect a conscious and deliberate policy choice on the part of Union of India to confer upon all eligible pensioners the benefit of arrears of disability pension with effect from 01.01.1996 or 01.01.2006, as the case may be. In view of decision of this Court in *Ram Avtar* (supra), the Government of India, by an order dated 18.04.2016, expressly conveyed its approval to the Chiefs of the Army, Navy and Air Force for implementation of the directions issued by the Courts and Tribunals granting the benefit of broad banding of the disability element to Armed Forces Personnel who had retired or were discharged on completion of engagement with disability, attributable to or aggravated by military service, from the date specified in the respective judicial orders.

19. The order dated 18.04.2016 was a conscious policy determination taken with full financial concurrence. Thus, where the State itself, by a conscious policy decision, has determined that arrears of disability pension are payable from a specified cut off date, it is not open to it to subsequently resile and contend that such arrears ought to be confined to a period of three years preceding the claim. To permit such a course, of law. This principle applies with full vigour to disability pension, which is grounded not merely in length of service, but in the impairment suffered by a member



of the Armed Forces in the course of, or attributable to, the service rendered to the would amount to acknowledging the right in principle while denying its substantive content in effect. Any such deprivation of accrued arrears which has become due to ex-servicemen in view of judicial determination as well as policy decision taken by the Union of India itself, would constitute deprivation of property and would amount to infraction of [Article 300A](#) of the Constitution of India.

20. This Court has, in a consistent line of decisions, recognised that right to receive disability pension is a valuable right and once found due, the benefit of the same has to be given from the date it became due. The same cannot be curtailed by restricting [K.J.S. Bhuttar v. Union of India & Anr.](#), (supra); [Davinder Singh v. Union of India & Ors.](#) (supra); [Madan Prasad Sinha v. Union of India & Ors.](#), (supra); Piyush Bahuguna (Order dated 25.03.2022 passed in Diary No.10713/2021) and [Bijender Singh v. Union of India](#) (supra) the benefit to a period of three years preceding the filing of the original application. In the absence of any compelling reason to take a different view, we find no justification to depart from the view consistently taken by this Court. 21. The contention advanced on behalf of the Union of India that the claim for arrears of disability pension is barred by [Limitation Act](#), cannot be accepted. The issue with regard to broad banding of disability pension attained finality only on 10.12.2014. Thereafter, Union of India in the order dated 18.04.2016 addressed to Chiefs of Army, Navy and Air Force acknowledged in clear terms that arrears of disability pension were to flow from 01.01.1996 without any curtailment. Therefore, in the facts and circumstances of the case, the contention that the claims of ex-servicemen were barred by limitation does not deserve acceptance.”

7. Even, as per the principle of law settled by Hon’ble Supreme Court of India in case titled as ***'Balbir Singh Vs. Union of India and Others Civil Appeal No. 3086 of 2012 decided on 08.04.2016***, the benefit of arrears cannot be restricted and the petitioners cannot be allowed to take the benefit of their own wrong. The relevant paragraph of the said judgment is extracted hereinafter:

“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. The fact that the appellant had approached the Tribunal for redress belatedly was in the peculiar circumstances of the case, no reason for the Tribunal to reduce the payment of arrears to three years only.”

8. Hence, once the benefit is admissible which is even conceded by the petitioner, challenging the said order is without any valid justification and such challenge cannot be accepted.
9. Keeping in view the above, it cannot be said that the order passed by the Tribunal is perverse either on facts or on law. Hence, no ground is made out for any interference by this Court.
10. The present writ petition stands dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

30.04.2026
sapna adhikari

Whether speaking/reasoned	:	Yes
Whether reportable	:	No