

invalid pension cannot be granted.

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

5. The grievance raised at hands of learned counsel for the petitioners that minimum service of 10 years is required for grant of invalid pension, it should be noted that same issued has already been dealt by 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***, whereby it has been held that even if an officer is invalided 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.”

6. For argument raised by learned counsel for the petitioners that since disability suffered by respondent No.1 is neither attributable to nor aggravated by military service, benefit of invalid pension could not have been granted to respondent No.1, on being asked whether any such rule exists which puts as embargo on grant of invalid pension if disability assessed is neither attributable to nor aggravated by military service, learned counsel has not been able to show any such rule.

7. No other argument raised.

8. Keeping in view the totality of the circumstances, the arguments which have been raised at the hands of the learned counsel for the

petitioners cannot be accepted keeping in view the settled principle of law noticed hereinbefore.

9. No ground is made out for any interference by this Court in the facts and circumstances of the present case and accordingly, the writ petition is dismissed.

10. Civil miscellaneous application pending if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

04-05-2026
Sapna Goyal

(DEEPAK MANCHANDA)
JUDGE

NOTE: Whether speaking/ reasoned: YES
Whether reportable: NO