

2026:PHHC:088912



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(156)

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Date of Decision : 01.07.2026

Union of India and Others

...Petitioners

Versus

Ex Spr Jagjit Singh and Another

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Dr. Anandeshwar Gautam, Senior Panel Counsel,
for the petitioners-Union of India.

Harsimran Singh Sethi, J. (Oral)

1. In the present writ petition, the challenge is to the order dated 04.01.2024 (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 invalid pension has been given to respondent No.1.

2. Learned counsel appearing on behalf of the petitioners argues that even for the grant of benefit of invalid pension, the personnel concerned should have rendered minimum qualifying service of 10 years, which has not been completed by respondent No.1 in the present case and further, respondent No.1 in the present petition was enrolled in the Army service w.e.f. 26.12.1993 and was later invalided out from service w.e.f. 01.09.1996



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after completing service of 03 years, 04 months and 05 days only for the disability of 'Traumatic amputation of Rt. Index, Middle and Ring Finger' when such disability was assessed as 30% for five years holding it as attributable to military service. Therefore, the grant of invalid pension to respondent No.1, in the facts and circumstances of the present case, is incorrect.

3. Learned counsel for the petitioners further submits that even if it is assumed for the sake of argument that invalid pension is to be granted to respondent No.1 but the same is only to be granted starting from 04.01.2019 onwards as per instructions dated 16.07.2020 issued by Government of India keeping in view the fact that respondent No.1 had not rendered 10 years of qualifying service as the said instructions removed the embargo of rendering 10 years of mandatory service for grant of invalid pension and as the respondent No.1 was invalidated out of service prior to the said date devoid of rendering 10 years of mandatory service, the invalid pension could not have been granted under any circumstances, which fact has been ignored by the Tribunal while granting the relief.

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**



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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-



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(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.”



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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. Further, another argument raised by the learned counsel for the petitioners is that benefit of invalid pension can only be granted prospectively from 04.01.2019 onwards keeping in view the instruction dated 16.07.2020 issued by Government of India whereas, the case of respondent No.1 related to a period prior to that, therefore, the benefit of the said instruction cannot be extended to present respondent No.1.

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

8. No other argument raised.



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9. 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.

10. 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.

11. Pending applications, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(AMARINDER SINGH GREWAL)
JUDGE

July 01, 2026
Shubham

Whether speaking/reasoned : Yes

Whether reportable : No