

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****228****CWP-18579-2025****DATE OF DECISION: 07.04.2026****UNION OF INDIA AND OTHERS****... Petitioners****Versus****SMT DAROMTI DEVI AND ANOTHER****... Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Ms. Sonia Sharma, Advocate for the petitioners-UOI.

Mr. Sandeep Bansal, Advocate for respondent No.1.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the challenge is to the order dated 12.10.2022 (Annexure P-1) passed by the Armed Forces Tribunal (hereinafter referred to as "Tribunal") by which respondent No.1 has been granted the benefit of "family pension" after holding husband of respondent No.1 as entitled to grant of service as well as disability element of disability pension.

2. Though, the finding recorded by the Tribunal on the basis of the record is that the husband of the respondent No.1 who remained an employee with Union of India from 13.04.1963 and was discharged on 06.07.1971 and was found to be suffering from the disability which was assessed at more than 20%, the liability to pay the pension was being disputed on the ground that he was discharged from service "at his own request" rather than being invalided out from service due to the disability suffered.

3. Learned counsel for the petitioners submits that grant of benefit of disability pension to husband of respondent No.1 has been wrongly granted, keeping in view the record, which record does not show that there is any



entitlement of husband of respondent No.1 regarding the benefit of disability pension. He further submits that there was a delay in raising the claim for the grant of the family pension which itself should be a ground to deny the said claim. Learned counsel for the petitioner has also disputed the claim of respondent No.1 qua grant of family pension on the ground that respondent No.1 has failed to prove that she is the legally wedded wife of soldier concerned.

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

5. As for the issue regarding grant of disability pension to respondent No.1, it should be noted that Tribunal has recorded a finding that argument of non-availability of the record with Union pertaining qua respondent No.1 is incorrect, which fact had been made the basis for denial of disability pension to respondent No.1. Once it is on record that at time of enrollment in services, husband of respondent No.1 was found to be fit and it is only during period of service rendered by respondent No.1 with Union that he incurred disability, the said disability is to be presumed to have been attributed to an aggravated by military service as per *Dharamvir Singh vs. Union of India and others, (2013) 7 SCC 316*.

6. As for the grievance raised that claim qua pension has been raised by respondent No.1 at belated stage, it should be noted that as per the settled principle of law settled by the Hon'ble Supreme Court of India in CIVIL Appeal No. 4100 OF 2022 titled as "*M.L. Patil (Dead) through L.Rs vs The State Of Goa and another*" passed in the claim regarding pension cannot be denied merely on ground of delay as same is a recurring cause of action. The relevant paragraph of the judgment is reproduced hereunder:-

"3. Having heard Shri Rahul Gupta, learned counsel appearing on behalf



of the appellant and Shri Ravindra Lokhande, learned counsel appearing on behalf of the respondent – State of Goa and considering the fact that even by the impugned judgment and order, the High Court has held that action of the State Government in requiring the original petitioners to retire at the age of 58 years or not permitting them to continue in their service upto the age of 60 years is illegal and null and void, we are of the view that the High Court has erred in observing that the appellant will not be entitled to any arrears of pension and the pension at the revised rates will become payable only from 1st January, 2020. As such, the High Court may be right and/or justified in denying any salary for the period of two extra years to the writ petitioners if they would have continued in service, on the ground of delay. However, as far as the pension is concerned, it is a continuous cause of action. There is no justification at all for denying the arrears of pension as if they would have been retired/superannuated at the age of 60 years. There is no justification at all by the High Court to deny the pension at the revised rates and payable only from 1 st January, 2020. Under the circumstances, the impugned judgment and order passed by the High Court is required to be modified to the aforesaid extent.

4. In view of the above and for the reasons stated above, the present Appeal Succeeds in Part. The impugned judgment and order passed by the High Court to the extent of denying any arrears of pension and holding that the appellant shall be entitled to the pension at the revised rates only from 1st January, 2020 is hereby quashed and set aside. It is held and ordered that the appellant – original writ petitioner shall be entitled to pension at the revised rates from the date he attains the age of 60 years. Now the arrears accordingly shall be paid to the appellant within a period of four weeks from today. Present Appeal is Partly Allowed to the aforesaid extent. In the facts of the case, there shall be no order as to



costs.”

7. Learned counsel for the petitioners has not been able to dispute the said principle of law hence, consideration of the claim of respondent No.1 the grant of family pension and disability by the Tribunal and thereafter granting the same after adjudicating the entitlement, needs no interference.

8. As for the argument raised by learned counsel for the petitioners that respondent No.1 is not the legally wedded wife of soldier concerned as there is no record showing the same, upon this, on being asked whether any such record exists or not, learned counsel for the petitioners very fairly submits that in the year 2021, she has been able to prove that she was the wife of Sipahi-Amarnath who is the soldier concerned in the present case, after whose death respondent was claiming the benefit of ordinary family pension being his wife. Once, the relationship has been proved by the respondent No.1 that she is the legally wedded wife of soldier concerned, the grant of the benefit from the date of entitlement needs no interference at the hands of this Court.

9. No ground is made out for interference by this Court as, the order dated 12.10.2022 passed by the Tribunal has not been proved to be perverse either on facts or on law.

10. The present petition stands dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

07.04.2026
sapna adhikari

Whether speaking/reasoned : Yes
Whether reportable : No