



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

125+229

(1)

**CM-3951-CWP-2026 in/and
CWP-37382-2025 (O&M)
Date of Decision: 16.03.2026**

Gurmit Singh**....Petitioner**

Versus

Union of India and others**....Respondents**

(2)

CWP-7258-2026**Kartar Singh****....Petitioner**

Versus

Union of India and others**....Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Rajesh Sehgal, Advocate
for the petitioners in both petitions.

Ms. Neha Jain, Senior Panel Counsel
for respondents – UOI in both petitions.

Harsimran Singh Sethi, J. (Oral)

CM-3951-CWP-2026 in CWP-37382-2025

This is an application for placing on record the reply on behalf of the respondents – UOI.

For the reasons mentioned in the application supported by affidavit, the same is allowed and the reply is taken on record, subject to all just exceptions.



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1. Both the petitions, the details of which are mentioned in the heading, involve common point of law and common set of facts, hence, they are being dealt together. For the sake of convenience, the facts are being taken from CWP No.37382 of 2025.

2. In the present petition, the challenge is to the impugned order dated 21.01.2019 (Annexure P-2) passed by respondent No.5 – the Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as ‘the Tribunal), by which, while granting relief of disability pension to the petitioner, the Tribunal, however, restricted the arrears to three years prior to the filing of the Original Application which is 23.10.2017.

3. The learned counsel for the petitioner submits that once it has already come on record, that the disability of IHD (OLD INFERIOR WALL MI) which was suffered by petitioner was the reason for discharging the petitioner from service in low medical category, so merely that the same has been assessed to be neither attributable to nor aggravated by the military service, the same view taken so as to deny him the grant of disability pension, which view has been accepted by the Tribunal is not correct, keeping in view of Rule 5 and 9 of ‘Entitlement Rules for Causality Pensionary Awards, 1982’, as held in the settled principle of law by the Hon’ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316.***

4. The learned counsel for the respondent – UOI submits that the petitioner should have been vigilant enough to raise the grievance in the prescribed time frame but as the same has been raised after a period of 30



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years, the denial of the benefit claim to the petitioner by the Tribunal is perfectly valid and the impugned order dated 21.09.2019 (Annexure P-2) passed by the Tribunal may kindly be upheld.

5. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

6. It may be noticed that the petitioner joined the Armed forces as Infantry GD on 11.10.1965 and was discharged on 31.10.1989 after rendering 24 years and 20 days of service in the rank of Hawaldar. Thereafter, the petitioner was re-enrolled in Defence Security Corps (DSC) on 08.11.1990. During service in DSC, the petitioner suffered heart problem which was later diagnosed as IHC (Old Inferior Wall MI). The petitioner, thereafter, was discharged from DSC after attaining the age of superannuation. However, the petitioner was not granted the benefit of disability element of disability pension by the DSC on the ground that the said disability is neither attributable to nor aggravated by the military service.

7. Qua the said aspect, it shall be noted that as per the principle settled by Hon'ble Supreme Court of India in ***Dharamvir Singh versus Union of India and others, (2013) 7 SCC 316***, any officer serving in the Armed Forces, who had undergone the medical examination at the time of his/her selection and was not found to be suffering from any such disease at that time on the basis of which, he/she has been discharged from service, such an employee is entitled for the benefit of presumption in his/her favour as per Rule 5 and 9 of 'Entitlement Rules for Causality Pensionary Awards, 1982' that the said disability has been suffered by the employee during his service career and is, thus, entitled for the benefit of disability pension. The relevant



paragraphs of the said judgment are as under:

“30. In the present case it is undisputed that no note of any disease has been recorded at the time of appellant's acceptance for military service. The respondents have failed to bring on record any document to suggest that the appellant was under treatment for such a disease or by hereditary he is suffering from such disease. In absence of any note in the service record at the time of acceptance of joining of appellant it was incumbent on the part of the Medical Board to call for records and look into the same before coming to an opinion that the disease could not have been detected on medical examination prior to the acceptance for military service, but nothing is on the record to suggest that any such record was called for by the Medical Board or looked into it and no reasons have been recorded in writing to come to the conclusion that the disability is not due to military service. In fact, non-application of mind of Medical Board is apparent from Clause (d) of paragraph 2 of the opinion of the Medical Board, which is as follows:

(d) In the case of a disability under C the board should state what exactly in their opinion is the cause thereof. YES ”

31. XXXX XXXX XXXX XXXX

32. In spite of the aforesaid provisions, the Pension Sanctioning Authority failed to notice that the Medical Board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the Pension Sanctioning Authority mechanically passed the impugned order of rejection based on the report of the Medical Board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982', the appellant is entitled for presumption and benefit of presumption in his favour. In absence



of any evidence on record to show that the appellant was suffering from "Genrealised seizure (Epilepsy)" at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service.

33. As per Rule 423(a) of General Rules for the purpose of determining a question whether the cause of a disability or death resulting from disease is or is not attributable to service, it is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a field service/active service area or under normal peace conditions."

8. Learned counsel for the respondent-UOI has not been able to rebut the same that keeping in view the aforementioned settled principle of law, the petitioner is to be held entitled for the grant of disability pension keeping in view the disability suffered, which disability is to be treated as having been attributable and aggravated by the military service.

9. It may be noticed that the question regarding the arrears has been settled by the Hon'ble Supreme Court of India in **Civil Appeal No.3086 of 2012** titled "**Balbir Singh vs. Union of India and others**", decided on 08.04.2016, wherein the question posed was with regard to limiting of the benefits of admissible arrears to the period of three year wherein the relief of entire arrears granted to the claimant and the Hon'ble Supreme Court of India held as under:-

"XXX...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.

We accordingly allow this appeal and modify the order passed by the Tribunal with the direction that the appellant shall be paid service element of the pension with effect from the date the said payment was stopped by the respondents. We however grant to the respondents three months time to calculate and release the arrears in favour of the appellant. In case the needful is not done within the time stipulated, the arrears payable to the appellant shall start earning interest at the rate of 9% from the date the period of three months expires till actual payment of the amount.”

10. Further, the issue of grant of arrears to the army personnel, which issue has been in dispute somewhat, has been settled by the Hon'ble Supreme Court of India in a recently passed judgment 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, whereby the Hon'ble Supreme Court of India has held that pensionary entitlements partake the character of property and same is neither a bounty nor *ex-gratia* payment and same cannot be withheld, reduced or extinguished except by authority of law. The Hon'ble Supreme Court of India has further held that UOI has taken a conscious policy decision so as to grant benefit of arrears of disability pension to all eligible ex-servicemen from 01.01.1996 or 01.01.2006 as the case may be, which is clear from para 2 of letter dated 15.09.2014 issued by Deputy Secretary (Pension),



Government of India and by letter dated 10.10.2018 issued by Director, Department of Pension and Pensioner's Welfare, wherein also same benefit was granted to all eligible from 01.01.1996 or 01.01.2006, as the case may be. The relevant paragraphs No. 15 to 21 of the judgment in **SGT Girish Kumar's case (supra)** are as under:-

“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 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 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, 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 exservicemen 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.”

11. Keeping in view the facts and circumstance of the present case as well as the settled principle of law settled in ***Dharamvir Singh’s case***



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(supra), *Balbir Singh's case (supra)* and *SGT Girish Kumar's case (supra)*, the arrears have wrongly been restricted to the petitioner.

12. Keeping in view the totality of the facts and circumstances of the present case, the order dated 21.01.2019 (Annexure P-2) in CWP-37382-2025 and order dated 11.11.2022 (Annexure P-3) in CWP-7258-2026 passed by the Tribunal are to be treated as perverse and cannot be upheld and accordingly, the same are set aside.

13. Accordingly, the present writ petitions are allowed. The petitioners are held entitled to disability pension from the date of discharge along with arrears, which benefit be released within a period of eight weeks from the date of receipt of the copy of this order.

14. Pending application(s), if any, stands disposed of.

15. Photocopy of this order be placed on the file of other connected case.

(HARSIMRAN SINGH SETHI)
JUDGE

March 16, 2026

Varinder

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No