2026:UHC:9648-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY

WRIT PETITION (S/B) NO. 167 OF 2025

27TH OCTOBER, 2026

Union of India and others ..... Petitioners

Versus

No.8369163-P SEP/PO
Ganesh Prasad Rana ..... Respondent

WITH

WRIT PETITION (S/B) NO. 170 OF 2025

Union of India and others ..... Petitioners

Versus

SL-04466A Lt. Col. Sagar Shahi (Retd.) ..... Respondent

WITH

WRIT PETITION (S/B) NO. 171 OF 2025

Union of India and others ..... Petitioners

Versus

JC-531482K Sub. Maj.
Dhirendra Singh Aswal (Retd.) ..... Respondent

WITH

WRIT PETITION (S/B) NO. 178 OF 2025

Union of India and others ..... Petitioners

Versus

No. 4188070M Ex. Hav.
Devendra Singh ..... Respondent

WITH

WRIT PETITION (S/B) NO. 183 OF 2025

Union of India and others ..... Petitioners

Versus

No. 1471011-A Ex. Naik
Shamsher Singh ..... Respondent

Counsel for the petitioner(s) : Mr. Rajesh Sharma, learned Standing Counsel for the Union of India

Counsel for the respondent(s) : --

The Court made the following:

JUDGMENT: (per Sri Manoj Kumar Tiwari, A.C.J.)

1) Union of India has filed these writ petitions challenging the judgment rendered by Armed Forces Tribunal, Regional Bench, Lucknow (Circuit Bench, Nainital), whereby respondent's claim for disability element of pension, has been allowed.

2) Since common questions of law and facts are involved in these petitions, therefore, the same are being heard and decided together for the sake of brevity and convenience.

3) The facts of Writ Petition (S/B) No. 167 of 2025 alone are being considered and discussed.

4) Judgment dated 12.03.2024, rendered by Armed Forces Tribunal, in O.A. No. 1124 of 2023 (No. 8369163-P Sep/PO Ganesh Prasad Rana Vs Union of India and others) is put to challenge in this writ petition.

5) Operative portion of the impugned judgment render by learned Tribunal is reproduced below:-

> "8. In view of settled position of law on attributability, we find that the RMB has denied attributability to the applicant only by endorsing that the disabilities (i) Stroke Lt Side Thalmoganglionic Bleed, (ii) Primary Hypertension, (iii) DM Type-II and (iv) B/L Early Posterial Sub Capsular Cataract with Mild to Moderate NPDR Both Eye are neither attributable to nor aggravated by military service on the ground of onset of disabilities between 2015 to 2017 while posted in peace locations, therefore, applicant is not entitled to disability element of pension. However, considering the facts and circumstances of the case, we are of the view that this reasoning of the Release Medical Board for denying disability element of pension to applicant is not convincing and doesn't reflect the complete truth on the matter. Peace Stations have their own pressure of rigorous military training and associated stress and strain of military service. The applicant had joined the Army on deputation on 07.06.1980 and the disabilities had started after more than 35 years of Army service i.e. in the year 2015 onwards. We are, therefore, of the considered opinion that the benefit of doubt in these circumstances should be given to the applicant in view of ***Dharamvir Singh*** (supra), and the disabilities of the applicant should be considered as aggravated by military service.
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> 9. In view of the above, the Original Application No. 1124 of 2023 deserves to be allowed, hence allowed. The impugned order dated 31.01.2023 (Annexure A-3 to O.A.) rejecting the applicant's claim for grant of disability element of pension, is set aside. The disabilities of the applicant i.e. (i) Stroke Lt Side

Thalmoganglionic Bleed, (ii) Primary Hypertension, (iii) DM Type-II and (iv) B/L Early Posterial Sub Capsular Cataract with Mild to Moderate NPDR Both Eyes of the applicant are held as aggravated by Army Service. The applicant is entitled to get disability element @ 100% for life from the next date of his discharge i.e. w.e.f. 18.11.2017. The respondents are directed to grant disability element of pension to the applicant @ 100% for life w.e.f. 18.11.2017.

10. It may also be observed that claim for pension is based on continuing wrong and relief can be granted if such continuing wrong creates a continuing source of injury. In the case of ***Shiv Dass vs. Union of India***, reported in ***2007 (3) SLR 445***, in Para-9 the Hon'ble Apex Court has observed as under:-

> "In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or **restrict the relief which could be granted to a reasonable period of about three years**. The High Court did not examine whether on merit appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone."

11. Since this O.A. was filed with delay and delay has been condoned by this Tribunal, as such, in view of the decision of the Hon'ble Supreme Court in the case of ***Shiv Dass*** (supra), we are of the considered view that benefit of disability element of pension may be made applicable to the applicant from three preceding years from the date of filing of the O.A.

12. In view of above, the O.A. succeeds and is hereby allowed. The respondents are directed to grant disability element of pension to the applicant @ 100% for life w.e.f. three preceding years from the date of filing of this O.A. This O.A. was filed on 18.09.2023. This order shall be complied with by the respondents within four months from the date of presentation of a certified copy of this order failing which the applicant shall be further entitled to interest at the rate of 8% per annum from the due date, till date of actual payment."

6) The view taken by learned Tribunal is in consonance with the law of the land as declared in the case of ***Union of India Vs Col. N.C. Isaac (Retd.), 2026 INSC 993***.

7) A co-ordinate bench of this Court has decided a batch of similar writ petitions filed by Union of India vide judgment dated 17.09.2026, the leading case being Writ Petition (S/B) No. 513 of 2024, titled as “Union of India & others Vs Mahipal Singh”.

8) For the reasons indicated in the judgment dated 17.09.2026, rendered in WPSB No. 513 of 2024, we do not find any scope for interference in the matter. Accordingly, these writ petitions are dismissed.

9) No order as to costs.

MANOJ KUMAR TIWARI, A.C.J.

SUBHASH UPADHYAY, J.

Dt: 27TH OCTOBER, 2026
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HIMANSHU NEGI

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