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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 8896/2025 & CM APPL. 38022/2025

DELHI DEVELOPMENT AUTHORITY .....Petitioner
Through: Mr. Vaibhav Agnihotri, ASC DDA with Ms. Suruchi Khandelwal, Adv.

versus

KRISHAN KANT SHARMA .....Respondent
Through: Mr. Abhishek Kumar and Mr. Birpal Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **04.05.2026**

C. HARI SHANKAR, J.

1. This writ petition is directed against order dated 6 October 2022 passed by the Central Administrative Tribunal[1] in OA 4583/2018 and 21 April 2025 in CP 106/2023.

2. We may note, at the outset, that, though the order dated 21 April 2025 in CP 106/2023 renotified the contempt petition for 3 July 2025, subsequently, the Tribunal has disposed of the contempt petition in view of the pendency of this writ petition.

3. OA 4583/2018, preferred by the respondent before the Tribunal, sought release of the respondent's retiral benefits, including pension, GPF and gratuity. The respondent had been compulsorily retired from

[1] "the Tribunal" hereinafter

service, following disciplinary proceedings, on 24 December 1991.

4. We may reproduce, for ready reference, the opening paragraph as well as paras 8, 11 and 8 to 10[2] of the judgment dated 6 October 2022 of the Tribunal, whereby the OA was disposed of, thus:

> "This Original Application has been filed by the applicant under Section 19 of Administrative Tribunals Act, 1985, seeking the following relief(s):
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> > "a) Direct the Respondent to release the retirement benefits including Pension, GPF and Gratuity to the applicant.
> >
> > b) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicant."
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> 8. In the case of compulsory retirement, which has been hanging since the date of superannuation, i.e., 24.12.1991, the applicant has been denied relief without any justification merely on the pretext that the files are not traceable. Also, it has been contended by learned counsel for the respondent that outcome of the said major penalty charge sheet is not ascertainable.
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> 11. Further, it is the contention of the respondent that in order to process the case of grant of pensionary benefits, retiring official/office is required to submit pension papers duly verified by controlling officer for acceptance of Competent Authority, thus, the said submission ignores the fact that applicant had submitted all his papers and Department, in absence of any file could have created a new file on said basis. The onus lies for the aforesaid processing of the pension papers on the respondent since file itself is not traceable in the DDA. It is for the respondent department to satisfy itself regarding the documents for the grant of pensionary benefits to the retiring official which has been hanging over since 24.12.1991, i.e., the date of superannuation, no justifiable reasons have been assigned except the aforesaid, despite the fact that the applicant has already submitted all his pension papers alongwith

[2] There is a discrepancy in the para numbering in the judgment as paras 8, 8 to 10 follow 11

PBR also, which was found to be missing.

8. In view of the aforesaid facts and circumstances, the present OA needs to be allowed and is accordingly allowed. The respondent department is directed to process the case of the applicant for grant of all pensionary benefits, as prayed and process his case on the basis of documents submitted by the applicant, even though the file is not traceable, within a period of three months from the date of receipt of a certified copy of this order, failing which the applicant shall also be entitled to interest at GPF rates in default thereafter till the date of actual payment.

9. Needless to say that the applicant should also furnish an undertaking/indemnity for release of the pensionary benefits just to protect the respondent organization in the event any memo of charge sheet as mentioned herein above has ever been contemplated.

10. The OA is allowed in the aforesaid terms. There shall be no order as to costs."

5. The petitioner never chose to challenge the above judgment dated 6 October 2022 of the Tribunal. Rather, we are constrained to note, with some degree of disquietude, an officer of the department chose to *suo motu* to read down the order passed by the Tribunal by disbursing arrears of retiral benefits of the respondent only for a period of three years prior to the passing of the order.

6. Mr. Agnihotri who appears for the petitioner, submits that this decision was *bona fide* and based on the judgment of the Supreme Court in ***Union of India v. Tarsem Singh***[3].

7. We will deal, presently, with the decision in ***Tarsem Singh***. However, we are clear in our mind that the order dated 6 October 2022 of the Tribunal in the OA 4583/2018 allowed the prayers in the

[3] **(2008) 8 SCC 648**

OA unconditionally and specifically directed the petitioner to process the case of the respondent *for grant of* <u>*all*</u> *pensionary benefits as prayed.*

8. Though Mr. Agnihotri has endeavoured to submit that there was no period specified in the order, we reject the submission outright. When the Tribunal had reproduced the prayers of the respondent, for grant of his pensionary benefits, found that the file for grant of pensionary benefits was hanging since 1991, and concluded with a direction that the respondent's file had to be processed for grant of *all* pensionary benefits, there is not even a scintilla of ambiguity in the decision of the Tribunal as could result in any officer *bona fide* coming to a conclusion that arrears were required to be paid only for three years.

9. We express our unhappiness at the fact that, without challenging the order dated 6 October 2022 of the Tribunal and despite the clear direction contained in the order, a departmental officer chose to rewrite the order and restrict its applicability to a period of three years prior to the passing of the order.

10. As the officer is not before us, we say no more.

11. Be that as it may, on finding that he had been granted arrears only for a period of three years prior to the passing of the order by the Tribunal, the respondent approached the Tribunal by way of CP 106/2023.

12. In the said CP, the Tribunal, on 21 April 2025, noted the fact that, in the order passed in OA 4583/2018, there was no restriction on the arrears payable to the respondent and, therefore, directed the petitioner to disburse the arrears as per the order passed in the OA.

13. Aggrieved thereby, the petitioner has now challenged, before us, both the order dated 21 April 2025 in CP 106/2023, as well as, belatedly, the order dated 6 October 2022 passed in OA 4583/2018.

14. At the cost of repetition, we may again note that, in the judgment dated 6 October 2022 passed by the Tribunal in OA 4583/2018, there was no restriction on the arrears of retiral benefits payable to the respondent and that the Tribunal had allowed the prayers in the OA without any caveat. It was not open, therefore, to the petitioner to sit in appeal over the order passed by the Tribunal and disburse arrears only for a period of three years, irrespective of whether the decision was taken on the basis of an order passed by the Supreme Court in another case or for any other reason. The Tribunal, therefore, was justified in directing the petitioner to disburse the arrears to the respondent as earlier directed in the OA.

15. Nonetheless, to satisfy ourselves, we have perused the judgment of the Supreme Court in ***Tarsem Singh*** to examine whether the said decision would justify restricting the arrears payable to the respondent for a period of three years.

16. ***Tarsem Singh*** was a case which dealt with disability pension. In that case, the respondent Tarsem Singh was invalidated out of

Army service on 13 November 1983. It was 16 years thereafter, in 1999, that he sought disability pension. It was in these circumstances that the Supreme Court observed that the entitlement to disability pension would be restricted for a period of three years prior to Tarsem Singh approaching the court.

17. Besides, ***Tarsem Singh*** now stands revisited by the Supreme Court recently in its judgment in ***Union of India v. Sgt Girish Kumar***[4]**,** rendered on 12 February 2026. We may reproduce, from the said judgment, paras, 15, 16, 20 and 22 thus:

> 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.
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> 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***[5] *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.
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[4] **2026 SCC OnLine SC 194**

[5] **Union of India v. Ram Avtar, 2014 SCC OnLine SC 1761**

> 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 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.
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> 22. The reliance placed by the appellant on the decision of a two-Judge Bench of this Court in ***Tarsem Singh (supra)*** is of no assistance to it, as the legal landscape did not remain static after decision in ***Tarsem Singh***. Subsequently, a three-Judge Bench of this Court in ***Ram Avtar (supra)***, decided the issue of applicability of instruction dated 31.01.2001 and the aforesaid decision is *in rem.* For, yet another reason, the decision in ***Tarsem Singh (supra)*** has no application to the case in hand as ex-servicemen in the instant appeals are already in receipt of disability pension and are only seeking re-computation of the disability pension. The right to approach the Tribunal accrued to ex-servicemen only on 10.12.2014 i.e., when the decision in ***Ram Avtar (supra)*** was rendered by this Court. Therefore, the bar contained in Section 22(1)(c) of the Act has no application to the claims filed by the ex-servicemen before the Tribunal. In the facts and circumstances of the case, we find that the original applications filed by the ex-servicemen do not suffer from any delay or laches disentitling them from claiming the relief of arrears of disability pension. Thus, the objections founded on the delay and limitation are without any merit."
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> (Emphasis supplied)

18. In para 15, the Supreme Court has clearly held that pension is neither a bounty nor an *ex gratia* payment dependent upon the grace of the State, and is a deferred portion of compensation for past service. On fulfilment of the governing conditions, it matures into a vested and enforceable right. The Supreme Court has further observed, in clear and unequivocal terms that "pensionary entitlements …. partake the character of property", and "cannot be withheld, reduced, or extinguished except by authority of law".

19. There can, therefore, be no justification for the petitioner withholding the pensionary benefits of the respondent though he was compulsorily retired from service in 1991.

20. Though Mr. Agnihotri sought to contend that certain relevant documents had not been produced by the respondent as would entitle him to pensions, we are unwilling to accept this as an explanation for delay in disbursal of the retiral benefits. We may note, in this context, that it was only after the respondent approached the Tribunal and after the Tribunal passed an order that the petitioner condescended to release retiral benefits to the respondent even for a period of three years. The delay in release of the retiral benefits of the respondent cannot, therefore, be justified in any sense of the word.

21. Additionally, a claim to disability pension is in addition to the regular pension which is being drawn by the concerned ex-serviceman. The ex-serviceman is, therefore, not left without any retiral benefits, even if there is delay in disbursal of his disability pension. As against this, in the present case, the respondent was not paid a farthing, till the Tribunal passed the order dated 6 October 2022. Such a case cannot, therefore, be equated with the decision in ***Tarsem Singh***.

22. We cannot, therefore, accept the submission of Mr. Agnihotri that the respondent was, by operation of the judgment in ***Tarsem Singh***, entitled to be released retiral benefits only for a period of three years prior to his filing the OA 4583/2018 before the Tribunal.

23. Accordingly, we are not inclined to entertain this writ petition which is dismissed, with no orders as to costs.

24. We direct that the remaining retiral benefits of the respondent as per order dated 6 October 2022 be positively disbursed within a period of four weeks from today, failing which the said amount would carry interest @ 8% p.a. till the actual disbursal.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

MAY 4, 2026
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