
(2025) 11 P&H CK 1928

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 631 Of 2024 (O&M)

Union Of India And Others

APPELLANT

Vs

Ex. Kashmir Singh And Another

RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Citation : (2025) 11 P&H CK 1928

Hon'ble Judges : Harsimran Singh Sethi, J;Vikas Suri, J

Bench : Division Bench

Advocate : Rohit Verma, Abhimanyu Sharma

Judgement

Harsimran Singh Sethi , J

1. In the present petition, the challenge is to the order dated 21.12.2022 (Annexure P-1) passed by the learned Armed Forces Tribunal, Regional Bench Chandigarh (hereinafter referred to as 'the Tribunal') whereby the petitioner herein was directed to grant disability pension to respondent by treating the disability he incurred @ 50%. Further, the arrears shall remain restricted to three years preceding date of application i.e. 15.09.2021.

2. Learned counsel for the petitioners argues that though the benefit of disability pension has been granted to respondent herein but even the disability which is being suffered by him has not been mentioned.

3. Learned counsel for the petitioners further submits that unless and until any disability is noticed or even mentioned, merely on the ground that the officer was invalidated out from service on medical category will not be a ground to grant disability pension especially when the discharge was in the year 1982 and the OA was filed after a period of 40 years.

4. Learned counsel appearing on behalf of respondent No.1 submits that once the respondent was invalidated out on the medical ground on 03.11.1982, even if the disability is less than 20%, the benefit of disability pension was available,

the same benefit which has been granted by the Tribunal and therefore, order passed by the Tribunal dated 21.12.2022 (Annexure P-1) may kindly be upheld.

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

6. In order to claim disability pension, the disability has to be noticed to the percentage that exists. No mention of disability being suffered by the respondent has been noticed by the Tribunal and unless and until, the said disability is noticed, which has to be treated as attributable to or aggravated by the military service, the benefit of disability pension could not have been granted by the learned Tribunal.

7. Keeping in view the totality of circumstances, the order dated 21.12.2022 (Annexure P-1) is set aside and the case is remanded back to the Tribunal for fresh adjudication, wherein the respondent will be free to bring on record the appropriate facts qua the disability being suffered by him on the basis of which he is seeking disability pension.

8. Parties are directed to appear before the Tribunal on 01.12.2025.

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