



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

CWP-8732-2025

Date of Decision: 27.08.2025

UNION OF INDIA

...Petitioner

Versus

NISHAN SINGH AND ORS

...Respondents

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

Present:- Mr. Vishal Garg, Senior Panel Counsel, for the petitioner.

None for respondent No.1.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the challenge is to the order dated 03.10.2023 (Annexure P-1) passed by the Armed Forces Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which the petitioner has been directed to decide the claim of war injury keeping in view the injury(s) suffered in the Indo-Pak War in the year 1971, on the ground that the same is perverse.

2. Learned counsel for the petitioner has only raised an argument that the claim was raised after a delay of 48 years and should not have been entertained by the Tribunal and therefore, the order passed by the Tribunal dated 03.10.2023 (Annexure P-1) may kindly be set aside.

3. We have heard learned counsel for the petitioner and have gone through the record of the case with his able assistance.



4. It may be noticed that the plea of delay of 48 yeras is taken by the Union of India to deny a benefit of pension to the soldier, who while fighting for the nation in the Indo-Pak War in the year 1971, suffered the disability, which fact has gone unrebutted. Rather than rewarding the soldier or taking care of the injured soldier, the objection has been taken that the delay of 48 years should debar the entitled claim of respondent No.1 under law for war injury pension.

5. Once, it is a conceded fact that respondent No.1 suffered injury while participating in the Indo-Pak War in the year 1971, which fact has been confirmed by the Medical Board as well and the said disability was a reason for invalidating respondent No.1 from service, the Government should have come forward on its own to grant the said benefit of war injury pension was to such disabled soldier rather than expecting soldier to raise the claim for the entitlement.

6. Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.3086 of 2012** titled as ***Balbir Singh vs. Union of India and others***, decided on 08.04.2016 held that the delay in filing an Original Application is liable to be condoned, since such claims are continuing and recurring in nature. The Court further held that mere delay cannot defeat the valuable right of the claimant nor restrict the arrears. The relevant paragraph of the judgment is as under:

“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.”

7. Learned counsel for the petitioner has not been able to dispute the facts as well as the law, which has been cited hereinbefore. Hence, as the learned counsel for the petitioner has not been able to prove that the order passed by the Tribunal is perverse either on facts or on law, no ground is made out to interfere by this Court in the order passed by the Tribunal.

8. Even the soldier has approached this Court by way of Civil Writ Petition No.15172 of 2024 for seeking direction to implement the said order, which was passed as far back as on 03.10.2023, keeping in view the facts and circumstances, the Union of India is directed to release the benefits



in his favour, as awarded by the Tribunal, within a period of eight weeks from the date of receipt of copy of this order, failing which, in case any contempt proceedings are initiated, strict view will be taken against the defaulting officer concerned.

- 9. No other argument has been raised.
- 10. The present writ petition is disposed of accordingly.

(HARSIMRAN SINGH SETHI)
JUDGE

August 27, 2025
harish

(VIKAS SURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No