

**CWP-7453-2025****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(122-35)****CWP-7453-2025****Date of Decision : September 30, 2025****Union of India and others****.. Petitioners****Versus****Ex. LNK Jasbir Singh and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI****Present: Ms. Neha Jain, Senior Panel Counsel, for the petitioners.****HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present petition, the challenge is to the impugned order dated 18.01.2024 (Annexure P-4) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal'), by which, the benefit of service element alongwith disability element of disability pension has been directed to be granted to respondent No.1.

2. Learned counsel for the petitioners argues that in the present case, respondent No. 1 has only served in the armed forces for a period of 11 years and 255 days and hence, he was not entitled for the grant of service element of disability pension, but while granting the benefit of disability pension to respondent No. 1 the Tribunal has directed to also grant the service element of disability pension, which is incorrect.

3. Learned counsel for the petitioners further argues that even otherwise, when respondent No. 1 was relieved from service, it was assessed by medical board that the disease suffered by respondent no. 1 is attributable to



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the military service and the disability of respondent No. 1 was assessed at 30 % for life and keeping in mind the said aspect, the benefit of disability pension devoid of service element has already been given to him, hence, revising of the same by adding service element is incorrect.

4. Learned counsel for the petitioners further submits that while passing the impugned order dated 18.01.2024 (Annexure P-4), the Tribunal has ignored the factum that minimum service of 15 years is required for getting the benefit of service pension, which requirement has not been complied with by the respondent in the present case.

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

6. It may be noticed that the Union of India has raised the claim that the officer concerned did not had 15 years service in his credit so as to get the benefit of service element while fixing the disability pension, but, the said question of law is no longer *res integra* as, the same has already been decided by Hon'ble Supreme Court of India in Civil Appeal No. 4714-4715 of 2012 titled as **Union of India and others versus V. R. Nanukuttan Nair, decided on 07.11.2019** wherein the Hon'ble Supreme Court of India was dealing with the similar issue as in the present case, though the provisions for considering the issue were that of Navy. The regulation 107 of the Navy (Pension) Regulations, 1964 which was discussed in the said judgment is *pari materia* to the service regulations No. 183 of the Pension Regulation for the Army Act, 1961, which regulation is applicable in the present case.

7. After considering the said regulation, the findings which have been recorded by the Hon'ble Supreme Court of India in paragraph No. 19 is as under:-



“19) In view of the principles of interpretation relating to Casus Omissus, we find that a reading of the Regulations does not lead to an inference that the service element should be limited to an individual who has completed minimum 15 years of engagement. Regulation 78 cannot be read into Regulation 105B when no such qualification is provided in Regulation 105B.”

8. Learned counsel for the petitioners has not been able to rebut the said settled principle of law.

9. Not only this, the similar issue was raised by the Union of India in *CWP No. 2412 of 2025, titled as “ Union of India and others versus No. 763665 Ex Cpl Kishor Chandra Mohanty and another”*, decided on 29.01.2025 and after imposing the cost of Rs. 25, 000/- , the Co-ordinate Bench of this Court, dismissed the said writ petition by recording the findings that despite settled principle of law qua said aspect, the writ petitions are being filed by the Union of India by ignoring the provisions of law.

10. Once again, the Coordinate Bench of this Court while dismissing three writ petitions filed by the Union of India i.e. CWP-1947-2025 on the same cause by recording the findings that the term “service element” is being confused with the term “service pension”, which is incorrect and similar writ petitions were dismissed.

11. Learned counsel for the petitioners has not been able to rebut the said settled principles of law which have been reproduced herein before according to which even if, an officer has less than 15 years of service in credit but has been discharged from service on the ground of disability suffered by the officer concerned during the service, which disability was attributable to the military service, the service element has to be taken into account as per the regulations 183 of the 1961 regulations.

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12. Further with regard to the ground being taken by the petitioner that the discharge of the respondent No. 1 was relieved on compassionate ground, it may be noticed that at the time of relieving of respondent No. 1 from service, the respondent No. 1 was medically unfit which also lead to the grant of the disability pension. Once, the disability pension was granted to the officer concerned due to the disease suffered by him/her, which according to the petitioner as well, was attributable to the military service, petitioner were under obligation to consider the claim of the respondent No. 1 qua service element as well in accordance with regulation 183.

13. No other arguments have been raised.

14. Keeping in view the totality of facts and circumstances and as the learned counsel for the petitioners has not been able to prove that the impugned order dated 18.01.2024 (Annexure P-4) is perverse, either on the basis of the facts or the settled principle of law, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

15. Accordingly, the writ petition is dismissed.

16. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

September 30, 2025
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No