

2025:PHHC:099022-DB

CWP-35290-2024 (O&M)
Date of Decision: 30.07.2025

Union of India and others ...Petitioners

Vs.

Ex. Naik Jaswinder Singh and another ...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE KULDEEP TIWARI**Present: Mr. Maheshinder Singh Sidhu, Sr. Panel Counsel
for the petitioners.

Mr. Rajesh Sehgal, Advocate for respondent No.1.

ASHWANI KUMAR MISHRA, J. (Oral)

1. Controversy raised in the present writ petition stands finally answered by this Court in CWP-1947-2025, tilted as 'Union of India and others vs. No.13742023 Ex Nk Milap Chand and another, decided on 28.07.2025, wherein, this Court held as under:-

12. We are, therefore, not impressed by the petitioner's argument that the respondent was not invalidated out. Even otherwise, we find that the Tribunal in para No.9 has referred to Rule 280 of the Pension Regulations for the Army related to DSC Service Personnel to observe that Disability Pension consists of two elements i.e. Service Element and Disability Element. Clause 1(b) of Regulation 280 relates to a case wherein an individual has not rendered sufficient service to

qualify for service pension. The corresponding mode of calculation is contained in right column and where such a person has not completed sufficient qualifying service for a service pension, the person is entitled to service pension as determined in Regulation 271(B) such that it cannot be less than 2/3rd of the minimum service pension admissible to the rank/pay group. The Tribunal apparently has non-suited the petitioner by relying upon Regulation 280 which is not limited to a personnel who is invalided out. Even if we keep aside the provisions contained in Regulation 179 yet the entitlement of respondent would flow from Regulation 280 which would be applicable to respondent- Milap Chand who was in Defence Service Corps. Being an employee of DSC, he would be entitled to Disability Pension on account of Regulation 280. The argument of the petitioner in that regard, therefore, must fail.

13. Coming to aspect of service element not being included in disability pension, we find that this issue has been settled by the Supreme Court in Union of India Vs. V.R. Nanukuttan Nair, 2019(19) SCC 690. After referring to identical provisions in respect of ex-navy personnel, the Supreme Court held as under:-

20) Still further, the Regulation 107 providing service element in the event of an individual who has not completed the qualifying service will become otiose. A reading of all the regulations harmoniously and keeping in view the object of grant of disability pension, we find that the interpretation which advances the object and

purpose of the grant of disability needs to be accepted being a beneficial provision for a class of individuals who have suffered disability in the course of duty.

21) The quantification of disability pension in the cases of an individual, who has not completed qualification service is dealt with in Regulation 107. Sub-clause (a) of Clause (1) of Regulation 107 deals with the situation where the individual has rendered sufficient service to qualify for a service pension i.e. 15 years of service in terms of Regulation 78. However, sub-clause (b) comes into play where the individual has not rendered sufficient service to qualify for service pension. In cases where the disability was suffered while flying or parachute jumping, the minimum service pension is appropriate to his rank and group but in all other cases, the service pension is restricted to minimum of two-thirds of the minimum service pension. For such reason, the disability element would be in addition to the service pension by cumulative reading of Regulation 78, Regulation 105B and Regulation 107 of the Regulations. The service pension is to be assessed on the basis of the minimum service pension laid down for an able individual of the same group in Regulation 107 of the Regulations.

14. The judgment of the Supreme Court in V.R. Nanukuttan Nair (supra), has been consistently followed by this Court in a series

of cases including CWP No.19497 of 2024, Union of India Vs. Satpal Singh, Writ Petition No.30276 of 2024 – Union of India Vs. Charanjit Singh and by Himachal Pradesh High Court in CWP No.757 of 2024 - Union of India and others Vs. Joginder Lal.”

2. In that view of the matter, we do not find any reason to interfere with the judgment passed by the Tribunal dated 13.09.2019. Consequently, the writ fails and is dismissed accordingly.

3. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(KULDEEP TIWARI)
JUDGE

30.07.2025

rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No