



HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Civil Writ Petition No. 24281/2025

Ratti Ram S/o Shri Devat Ram, aged about 79 years, Ex. Cpl,
Aged 79, R/o A-139, Lotus Green City, Sector-9, Kurukshetra,
Haryana.

----Petitioner

Versus

1. Union of India through the Secretary, Ministry of Defense,
South Block, New Delhi.
2. The Chief of Air Staff, Air Headquarter, Vayu Bhawan, New
Delhi.
3. The Air Officer Commanding, Air Force Record Office,
Subroto Park, New Delhi-110010.
4. The Chief Controller of Defence Accounts, Draupadi Ghat,
Allahabad.(Up).

----Respondents

For Petitioner(s) : Mr. Jog Singh Bhati
For Respondent(s) : Mr. Samit Shrimali for
Mr. Prem lata Ranga.

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE DR. JUSTICE NUPUR BHATI

J U D G M E N T

Reserved on : 18/05/2026
Pronounced on : 16/06/2026

Reportable

Per Hon'ble Dr. Justice Nupur Bhati:

1. The instant writ petition has been filed by the petitioner
under Articles 226 and 227 of the Constitution of India, claiming
following relief(s):



“1. This writ petition may kindly be allowed with the costs, and by way of writ, order and directions, the impugned judgment dated 04.09.2023 (annex.1) passed in Original Application No. 10/2014 (Ex. Cpl. Ratti Ram Vs Union of India & Ors.) by the Learned Armed Forces Tribunal, Jodhpur, may kindly- be modified to this effect that the arrears of disability pension may be paid to the petitioner from the date of stoppage of the same i.e. 19.08.1980 till the date of actual payment.

2. Any other appropriate writ, order or direction which the facts and circumstances of the case, may kindly be passed in favour of the petitioner.”

2. Brief facts of the case, in a nutshell, are that the petitioner, an Ex-Corporal of the Indian Air Force, was enrolled in service on 22.01.1964 and was discharged on 31.01.1979. At the time of discharge, the Release Medical Board assessed him to be suffering from “Bronchial Asthma” attributable to and aggravated by military service and assessed the disability at 30% for life. Consequently, disability pension was sanctioned to the petitioner for the period from 01.02.1979 to 18.08.1980. Thereafter, the disability pension was discontinued with effect from 19.08.1980 on the allegation that the petitioner did not appear before the Re-survey/Re-assessment Medical Board. The petitioner contended that no communication regarding appearance before the Medical Board was ever served upon him and that he had continuously pursued the matter through various representations. Ultimately, the petitioner filed Original Application No.10/2014 before the Armed Forces Tribunal, Regional Bench, Jaipur, Circuit Bench at Jodhpur, seeking restoration of disability pension from the date of its discontinuance. During pendency of the proceedings, the learned Tribunal, vide order dated 15.11.2018, directed constitution of a Re-survey Medical Board (RSMB) for reassessment of the petitioner’s disability. Pursuant thereto, the





Re-survey Medical Board was convened on 19.11.2019, wherein it was opined that the petitioner continued to suffer from Bronchial Asthma with 30% disability for life and that the said disability remained constant from 19.08.1980 onwards. Thereafter, the learned Armed Forces Tribunal, vide judgment dated 04.09.2023, allowed the Original Application and directed grant of disability pension to the petitioner at the rate of 30%, rounded off to 50%, with effect from 19.11.2019 for life. However, arrears were restricted only from 19.11.2019. Being aggrieved by the restriction of arrears from 19.11.2019 instead of from the date of discontinuance of disability pension i.e. 19.08.1980, the petitioner has preferred the present writ petition seeking modification of the impugned judgment to the aforesaid extent.

3. Learned counsel for the petitioner submitted that the petitioner was initially granted disability pension for Bronchial Asthma assessed at 30% for two years from 01.02.1979 to 18.08.1980, thereby conclusively establishing that the disease was attributable to and aggravated by Air Force service. The subsequent discontinuance of disability pension with effect from 19.08.1980 was wholly arbitrary and without proper communication to the petitioner. Learned counsel further submitted that the petitioner was never informed regarding the constitution of any Reassessment/Re-Survey Medical Board after expiry of the initial period of disability pension. On the contrary, the petitioner had continuously pursued the matter through representations and correspondence for continuation/revision of disability pension. Thus, the respondents cannot be permitted to





contend that the petitioner was unwilling to appear before the Medical Board.

4. *Per contra*, learned counsel for the respondents supported the impugned order passed by the learned Armed Forces Tribunal and submitted that the Tribunal has already granted substantial relief to the petitioner by restoring the disability element of pension with effect from 19.11.2019 along with rounding off benefits, and therefore, no further interference by this Hon'ble Court is called for in exercise of its writ jurisdiction. It was submitted that continuation of temporary disability pension under the applicable service regulations is always subject to reassessment by a competent Reassessment/Re-Survey Medical Board, and in absence of such reassessment after 18.08.1980, the petitioner cannot claim disability pension for the intervening period as a matter of right. Learned counsel contended that the petitioner was initially granted disability pension only for a limited period from 01.02.1979 to 18.08.1980 and, therefore, continuation thereof was dependent upon fresh medical assessment in accordance with the Rules.

5. Learned counsel further submitted that the official records maintained by the respondents reflected that the petitioner was unwilling to appear before the Reassessment Medical Board and, consequently, the disability pension came to be discontinued with effect from 19.08.1980 and, therefore, in such circumstances, the respondents cannot be faulted for discontinuing the disability element of pension, particularly when the petitioner failed to undergo the mandatory reassessment process contemplated under the governing regulations.





6. We have heard learned counsel for the parties and perused the material available on record.

7. This Court is of the considered opinion that the learned Tribunal, while rightly allowing the Original Application on merits, fell into error in fixing the cut-off date for arrears as 19.11.2019.

The RSMB on 19.11.2019 itself has unequivocally recorded that the disability of the petitioner was constant at 30% from 19.08.1980 onwards. The finding of the RSMB is retrospective in nature and conclusively establishes that the petitioner was suffering from the qualifying disability continuously since the date his pension was stopped. Once the medical board has so recorded, there remains no legal basis to deny arrears from the date of actual stoppage.

8. This Court finds that the Hon'ble Supreme Court in the case of ***Union Of India Through Its Secretary vs Sgt Girish Kumar And Ors, decided on 12.02.2026, reported in 2026 SCC OnLine SC 194*** held that the right to receive disability pension is a valuable right, and once found due, the benefit must be given from the date it became due and cannot be curtailed by restricting the benefit to three years preceding the filing of the original application. The relevant paragraph has been reproduced hereunder: -

“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.”





The ratio of the said judgment applies with full force to the facts of the present case. The petitioner's disability pension was unlawfully stopped on 19.08.1980 and the RSMB has conclusively confirmed that the disability was constant at 30% from that very date. In light of the law laid down in **Girish Kumar case (supra)**, the arrears of disability pension must therefore flow from 19.08.1980, the date of unlawful stoppage, and the restriction of arrears to 19.11.2019 as fixed by the learned Tribunal is legally unsustainable and contrary to the settled position of law.

9. It is an accepted position that gratuity and pension are not bounties. An employee earns these benefits by dint of his long, continuous, faithful and unblemished service. The Court finds that the Hon'ble Apex Court in the case of **D.S. Nakara v. Union of India, decided on 17/12/1982, reported in (1983) 1 SCC 305**, has held as under: -

“18. The approach of the respondents raises a vital and none too easy of answer, question as to why pension is paid. And why was it required to be liberalised? Is the employer, which expression will include even the State, bound to pay pension? Is there any obligation on the employer to provide for the erstwhile employee even after the contract of employment has come to an end and the employee has ceased to render service?”

19. What is a pension? What are the goals of pension? What public interest or purpose, if any, it seeks to serve? If it does seek to serve some public purpose, is it thwarted by such artificial division of retirement pre and post a certain date? We need seek answer to these and incidental questions so as to render just justice between parties to this petition.

20. The antiquated notion of pension being a bounty, a gratuitous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through court has been swept under the carpet by the decision of the Constitution Bench in Deokinandan Prasad v. State of Bihar wherein this Court authoritatively ruled that pension is a right and the payment





of it does not depend upon the discretion of the Government but is governed by the rules and a government servant coming within those rules is entitled to claim pension. It was further held that the grant of pension does not depend upon anyone's discretion. It is only for the purpose of quantifying the amount having regard to service and other allied matters that it may be necessary for the authority to pass an order to that effect but the right to receive pension flows to the officer not because of any such order but by virtue of the rules. This view was reaffirmed in State of Punjab v. Iqbal Singh.”



In the present case, the disability pension of the petitioner was stopped on 19.08.1980 without any valid order, without any communication to the petitioner, and without following any due process of law whatsoever. The delay in assembling the RSMB was entirely attributable to the respondents, the learned Tribunal had directed the RSMB to be conducted within three months of 15.11.2018, yet the respondents took approximately one year to comply. Therefore, any delay caused by the inaction of part of the respondents cannot be held at the disadvantage of the petitioner.

10. This Court further takes note of the fact that the respondents having weeded out the service and medical records of the petitioner, which was a primary cause of the prolonged delay in resolving his claim. The petitioner had proactively submitted Annex.-A/2 as far back as 31.05.1990 seeking revision of his disability pension, which demonstrates that he was never indifferent to his entitlements. The respondents, having failed to act on the same and having thereafter weeded out the records, cannot be permitted to use the resulting delay as a shield against the legitimate claims of the petitioner.

11. The material placed on record by the petitioner before the learned Armed Forces Tribunal, particularly Annexures-4 and 7 appended with the Original Application, indicates that the



petitioner had expressed unwillingness to appear before the Re-Survey Medical Board (RSMB) prior to the discontinuation of his disability pension on 19.08.1980, whereafter his case was stated to have been closed. However, no document has been placed on record by the respondents to demonstrate that the petitioner was ever informed about the constitution of the RSMB or was communicated any specific date requiring his appearance before the competent authority. There is also no material available on record to establish that the petitioner remained absent despite due intimation, on account of which the respondents proceeded to close his case. Surprisingly, the learned Tribunal, without assigning any cogent reason, fixed 19.11.2019 as the date for resumption of disability pension. The impugned judgment is a non-reasoned order which is conspicuously silent on this crucial aspect and does not disclose any reasoning justifying the denial of arrears for the intervening period despite the categorical retrospective medical opinion of the RSMB. Furthermore, the respondents have also utterly failed to establish that the petitioner deliberately failed to appear before the RSMB or that the delay in reconsideration of his disability pension was in any manner attributable to the petitioner. It is also not disputed by the respondents that the petitioner had submitted an application dated 31.05.1990 (Annexure A/2), requesting revision/restoration of his disability pension. Despite receipt of the said application, the respondents failed to take any action thereupon or to consider the petitioner's claim in accordance with law.

12. The petitioner, an ex-serviceman now aged 79 years, has been suffering from Bronchial Asthma since his days of active





service to the nation. He has been deprived of his rightful disability pension for over four decades through no fault of his own. The purpose of disability pension is to provide sustenance and recognition to those who have suffered in the course of serving the nation. Any interpretation that defeats this purpose must be eschewed.

13. In view of the above, this writ petition succeeds. The impugned judgment dated 04.09.2023 passed by the Armed Forces Tribunal, Regional Bench, Jaipur, Circuit Bench at Jodhpur in Original Application No. 10/2014 is hereby modified to the following extent:

(i) *The respondents are directed to pay arrears of disability pension to the petitioner from 19.08.1980 (the date of stoppage of disability pension) till the date of actual payment, at the rate of 30% disability element rounded up to 50% as already directed by the learned Tribunal.*

(ii) *The arrears shall be computed and paid within a period of four months from the date of receipt of a certified copy of this order.*

(iii) *In the event of failure to comply within the stipulated period, the outstanding arrears shall carry interest at the rate of 6% per annum from the date of this order till the date of actual payment.*

14. Accordingly, the instant writ petition is allowed in part. No order as to costs.

(DR.NUPUR BHATI),J (DR.PUSHPENDRA SINGH BHATI),J

16-/Devesh/-

