

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

**CWP No.11049 of 2025, CWP No.11050 of 2025 and 11052 of 2025.**

**Decided on: 10.07.2025.**

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**CWP No.11049 of 2025**

Union of India & Others ...Petitioners

*Versus*

Sita Devi ...Respondent

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**CWP No.11050 of 2025**

Union of India & Others ...Petitioners

*Versus*

No.13740962Y Ex. Naik (TS) Charan Dass ...Respondent

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**CWP No.11052 of 2025**

Union of India & Others ...Petitioners

*Versus*

No.JC-3986275N Ex. Sep Ashok Kumar ...Respondent

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*Coram*

**Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice**

**Hon'ble Mr. Justice Ranjan Sharma, Judge**

<sup>1</sup>*Whether approved for reporting?.*

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| For the petitioner(s): | Mr. Balram Sharma, Deputy Solicitor General of India [Senior Advocate] with Mr. Rajeev Sharma, Advocate in all the petitions. |
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**G.S. Sandhawalia, Chief Justice [Oral]**

The present order shall dispose of the above three writ petitions, since the issue is similar, as the present writ petitions have been filed at a belated stage and there is major delay(s) in filing the writ petition(s), as such, seeking challenge to the order passed by the Armed Forces Tribunal, Chandigarh

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<sup>1</sup> Whether reporters of Local Papers may be allowed to see the judgment?

Regional Bench with Circuit Bench at Shimla in **OA 1064 of 2021** titled “**Sita Devi Vs. Union of India and others**” dated 25.03.2022, **OA 920 of 2018** titled “**Charan Dass Vs. Union of India & others**” dated 23.02.2023 and **OA 1317 of 2019** titled “**Ashok Kumar Vs. Union of India and others**” dated 21.12.2021 respectively. The said writ petitions are squarely covered by the principles laid down by us in **CWP No.2522 of 2025**, titled as **Union of India & Ors. Versus Pawna Devi** decided on 25.02.2025.

2. In case of Sita Devi [CWP No.11049 of 2025], the challenge is to the order dated 25.03.2022 passed by the Armed Forces Tribunal, Chandigarh Regional Bench with Circuit Bench at Shimla and the present writ petition was only filed on 27.06.2025 after a period of almost two and a half years. In the intervening period, miscellaneous applications were initially filed in the year 2022 before the Tribunal, seeking leave to appeal, which was delayed by 119 days and resultantly was dismissed on 02.11.2022. Thereafter, also for a period of more than two and half years, the Union of India had chosen not to agitate further against the relief granted which was on account of the fact that the prayer as such was made by the wife of the Ex-servicemen, as he was suffering from the

disease of “Hysterical Fugue (300)”. Since, she had come to the Court late after about 50 years after the death of her late husband so disability pension relief was denied and the arrears were restricted to three years preceding the date of Institution of the petition i.e. 03.08.2021 and due admissible arrears of admissible family pension was to be paid within a period of three months, failing which interest @8% per annum were liable to be paid.

**3.** Similarly, in Charan Dass’s case [CWP No.11050 of 2025], the challenge is to the order dated 23.02.2023 passed by the Armed Forces Tribunal, Chandigarh Regional Bench. Initially miscellaneous application was filed in the same year seeking leave to appeal alongwith the application for condonation of delay of 103 days, which were dismissed on 13.07.2023. Even after dismissal of the said application, no efforts, as such, were made to file the writ petition for a period of more than one year and the present writ petition was only filed on 27.06.2025 after a period of almost two years. The relief which has been granted was War Injury Pension from 01.05.1993, from the day next to the date of his discharge from service for life, along with arrears of differential amount, as such to be paid within a period of three months, failing which

interest would be payable @ 8% per annum, while noticing that the Ex-servicemen sustained “Grenade Blast Splinter Injuries” on his person, which was attributable to military service.

4. Similarly, in Ashok Kumar’s case [CWP No.11052 of 2025], the challenge is to the order dated 21.12.2021 passed by the Armed Forces Tribunal, Chandigarh Regional Bench with Circuit Bench at Shimla, wherein the Tribunal has granted the benefit of disability pension @ 50% against 30% for life alongwith @ 8 per cent penal interest, in case the amount is not paid within a period of three months, keeping in view the fact that the disability was of “Coronary Artery Disease”. In the intervening period, the miscellaneous applications were filed initially at a belated stage in the year 2023 for seeking leave to appeal, which were delayed by 363 days, in which the order of dismissal was passed on 22.02.2023 by the Tribunal. The Union of India again took a period of more than two years to file the writ petition on 27.06.2025, even after the order was passed in the miscellaneous application and now three and half years have elapsed after the first order was passed.

5. The above sequence of events would go on to show the negligence, as such and lack of commitment of the Union of India to prefer their remedy within a reasonable period.

Therefore, we are of the considered opinion that the above cases are liable to be dismissed, on the ground of delay and laches.

6. In such circumstances, we have already dismissed a bunch of cases, the lead case of which was **CWP No.2522 of 2025**, titled as **Union of India & Ors. Versus Pawna Devi**, on 25.02.2025 by noting that a reasonable period of delay can only be condoned by this Court not beyond a period of one year and no effort was made by the Union of India to challenge the orders as such passed by the Tribunal within the said period.

The relevant paragraphs of the said judgment read as under:

- “4. We are of the considered opinion that though there is no period prescribed for filing the writ petitions which challenge the orders of the Tribunal while invoking the power under Article 226 of the Constitution of India, but the Union of India cannot be permitted free play, as such to challenge the said orders at its own whims and fancies after a period of over two years in all these set of cases. The parties to the litigation have developed a vested right as such after the orders have come in force in their favour and for the Union of India as such to file these writ petitions after the delay as mentioned above, cannot as such be countenanced in the absence of any justifiable reasons.
5. The stock reason given for delay is that in **Civil Appeal No.447 of 2023 titled as Union of India & Ors. Versus Parashotam Dass**, was decided on 21.03.2023, wherein the Hon'ble Apex Court held that there is no restriction to exercise the power under Article 226 of the Constitution of India to challenge the orders passed by the Armed Forces Tribunal. The fall back has been made on an opinion dated 18.09.2023 given by learned Attorney General to file writ petitions to challenge the said order and therefore, justification has been made that a decision was taken on 18.10.2023, based on the said advice.
6. It is also not disputed that prior to the order passed in the case of **Parashotam Dass [supra]**, there was a right of

appeal to the Supreme Court under the Armed Forces Tribunal Act of 2007, prescribing a period of 90 days of the said decision under Section 30 of the Act.

7. There is nothing to show that after passing of the order of Tribunal, the Union of India had preferred its remedy before the Hon'ble Apex Court within the prescribed period. Only on account of the fact that judgment has been passed in the case of **Parashotam Dass [supra]** and opinion has been given by learned Attorney General to a set of cases, the sufficient cause is sought to be made out.
8. Thus, we can safely hold that there is deliberate inaction and lack of bonafide by the Union of India which amounts to gross negligence and the Union of India cannot take advantage of an order passed by the Hon'ble Apex Court whereby, the right to challenge the orders of the Armed Forces Tribunal has been cemented by noticing that constitutional provisions under Article 226 of the Constitution of India cannot be curtailed.
9. As per averments made in the writ petitions itself, the decision to file the writ petitions was only taken on 18.10.2023 after taking the opinion of the learned Attorney General to file the writ petitions and thus, the inaction is clear, as the order impugned was passed more than a year earlier.
10. As noticed, the Tribunal had passed various orders way back in May, August & November, 2022 and for a period ranging to 1 year to 1½ years, the Union of India opted not to challenge the said orders.  
11 to 24 xxx xxx xxx xxx
25. It is not the case of Union of India that there is any fraud or misrepresentation in the present set of cases, whereby mainly the legal representatives of the Armed Forces are seeking redressal of their rights. The State or the public body can be given some acceptable latitude keeping in view the law laid down by the Hon'ble Apex Court in the principle of limitation and though no precise formula, as such, can be laid down, but we cannot brush aside the fact that the parties in view of the orders passed by the Tribunal could have also resorted to getting the orders executed by filing appropriate remedies and Tribunal has also granted the benefit of penal interest, if the payment is not made within the prescribed period. In spite of this fact the Union of India chose to sit tight and chose not to file the writ petitions within a reasonable period which can be classified as one year and beyond the same, no indulgence can be granted.
26. Therefore, the period prior to 18.10.2023 as such between the date of the decisions ranging from May/August/November, 2022 cannot be condoned in any

*manner and therefore, we are of the considered opinion that the present writ petitions are liable to be dismissed on the grounds of delay and laches as on account of Union of India not having resorted to its legal remedies expeditiously or even having made reasonable effort to challenge the said orders or even take a decision as such to challenge the said orders for a period of over one year. The latitude as such on account of laxity on the department, in such circumstances cannot be extended.*

27. *Without going into the merits of the cases, we are of the considered opinion that there is a delay of over a year from passing of the orders and no effort was made to challenge the order passed by the Tribunal within a reasonable time, therefore, on account of the opinion given on 18.09.2023, the Union of India cannot raise the issue on merits."*

28. *Resultantly, there is no other option, but to dismiss these four writ petitions on account of the principle of delay and laches and the same are accordingly dismissed alongwith pending miscellaneous application(s), if any."*

7. In such circumstances, counsel for the Union of India could not distinguish the present set of cases from the earlier bunch and therefore, we do not find any plausible reason to take a different view in the present writ petitions.

8. Resultantly, the present writ petitions are dismissed. Pending application(s), if any, shall also stand disposed of.

**(G.S. Sandhawalia)**  
**Chief Justice**

**(Ranjan Sharma)**  
**Judge**

**10<sup>th</sup> July, 2025**  
(munish thakur)