

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
CWP No.11047 of 2025 and CWP
No.11051 of 2025
Decided on: 10.07.2025

CWP No.11047 of 2025

Union of India & Others

...Petitioners

Versus

No.13771019 Ex L/NK Amit Singh

...Respondent

CWP No.11051 of 2025

Union of India & Others

...Petitioners

Versus

No.JC-430655-P, Ex Sub Major & Hony.
Lt. Rajender Kumar.

...Respondent

Coram

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

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹*Whether approved for reporting?*

For the petitioner(s):

Mr. Balram Sharma, Deputy Solicitor
General of India [Senior Advocate]
with Mr. Rajeev Sharma, Advocate in
all the petitions.

G.S. Sandhawalia, Chief Justice [Oral]

The present writ petitions are being disposed of by the common order on account of the fact that the facts are identical and the petitions are being rejected, in view of the principles laid down in **CWP No.2522 of 2025**, titled as **Union of India & Ors. Versus Pawna Devi**, on 25.02.2025, on account of delay and laches.

2. In the case of Ex-servicemen L/NK Amit Singh [CWP No.11047 of 2025], the challenge is to the order dated 14.07.2023 passed by the Armed Forces Tribunal, Chandigarh Regional Bench

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

with Circuit Bench at Shimla and the date of filing the writ petition was 30.05.2023 i.e. after a period of almost two years. The Tribunal has granted the benefit as such of the disability element by granting disability pension @40% by rounding it off @50% for life from the day next to date of his invalidation from service, i.e. 01.10.2019, since, his case had been rejected on 17.10.2019. The penal clause @ 8% had also been awarded, if the amount was not paid within a period of three months. The Union of India has chosen to invoke upon itself the penal clause by not filing the writ petition within a reasonable period of one year.

3. Similarly, in Rajender Kumar's case [CWP No.11051 of 2025], the challenge is to the order dated 06.09.2023 passed by the Armed Forces Tribunal, Regional Bench Chandigarh at Chandimandir and the writ petition was filed on 27.06.2025 after a period of almost two years. The Tribunal has granted the benefit of disability pension @65% by rounding it off @75% for life from the day next to date of his discharge from service i.e. 01.06.2021 by finding that he was suffering from (i) Essential Primary hypertension (110) @30% (ii) Dilated Cardiomyopathy with mild LV dis-function (142.0) @50%. Similarly, the penal interest of 8% has been imposed, if the payment was not made within a period of three months. Apparently, again Union of India had chosen to invoke upon itself the penal clause by not filing the writ petition within a reasonable period of one year and chosen to show its laxity in its

usual manner.

4. In such circumstances, we are of the considered opinion that in similar circumstances, we have already dismissed a bunch of cases, the lead case of which was **Union of India & Ors. Versus Pawna Devi**, (supra) 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 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.*

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."

5. 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.

6. 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

10th July, 2025
(munish thakur)