

**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWP No.11124 of 2025 a/w
CWP No.11126 of 2025

Decided on: 11.07.2025

CWP No.11124 of 2025

Union of India & Others

...Petitioners

Versus

No.4001487K Ex-Nk Subhash Chand

...Respondent

AND

CWP No.11126 of 2025

Union of India & Others

...Petitioners

Versus

JC-695124P Subedar Mahender Singh

...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 order shall dispose of the above

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

two writ petitions, which are liable to be dismissed on account of delay and laches at the hands of Union of India, in view of the law laid down in **CWP No.2522 of 2025**, titled as **Union of India & Ors. Versus Pawna Devi**, decided on 25.02.2025, that the writ petition should be filed preferably within a period of one year against the order of the Tribunal and beyond that in absence of any justification, the same are not liable to be entertained.

2. In case of Subhash Chand [CWP No.11124 of 2025], the order passed by the Tribunal is dated 30.04.2024, whereby the Tribunal, as such, granted the benefit of disability pension @ 30% by rounding off @ 50% w.e.f. 01.08.2022 for life and the amount was to be paid within four months, failing which, the applicant was entitled to recover interest @ 8% per annum, till realization of entire amount, which was awarded by the Armed Forces Tribunal Chandigarh, Regional Bench, Circuit Bench at Shimla. Apparently, no effort had been made to challenge the said order within a reasonable time and the present writ petition has only been filed on 02.06.2025, and the Union of India has also suffered on

account of penal clause of interest also.

3. Similarly, in Mahender Singh [CWP No.11126 of 2025], the petition filed before the Armed Forces Tribunal Chandigarh Regional Bench, Circuit Bench at Shimla, was allowed on 11.10.2023 filed by the Ex-serviceman and it was directed to release the payment to the applicant within four weeks from the date of receipt of certified copy of order, failing which, the applicant shall be entitled to recover interest @ 8% per annum, till realization, as the applicant was already getting disability pension @ 30% for life, therefore, he was held entitled to arrears by way of rounding off @ 50% as against 30% w.e.f. 01.09.2014 to 31.12.2015. The Union of India is remiss in its usual manner and filed the present writ petition after a period of one and a half year on 27.06.2025 and thus, it shall be liable not only for penal interest but shall also be liable to face the dismissal of the writ petition, on the ground of delay and laches.

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.
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.”*

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

July 11, 2025
[Bhardwaj/himani]