

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT JAMMU**

WP(C) No. 797/2024

Reserved on: 01.04.2026  
Pronounced on: 08.04.2026  
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1. Union of India through its Secretary to Government of India, Ministry of Defence, South Block, New Delhi-110011. .... Petitioner/Appellant(s)
2. Additional Director General Personnel Services, Adjutant General's Branch, Integrated HQ of Ministry of Defence (army), DHQ PO, New Delhi-110001.
3. Principal Controller of Defence Accounts (Pensions), Draupadi Ghat, Allahabad, Uttar Pradesh-211014.

Through:- Mr. Vishal Sharma, DSGI with  
Mr. Eishaan Dadhichi, CGSC in  
WP(C) No. 797/2024  
Mr. L.K. Moza, Advocate in  
WP(C) No. 236/2024

V/s

1. No. 13750133Y Ex L/Nk Lakha .....Respondent(s)  
Singh, S/o Shri Hazara Singh, R/o  
Village Badhila, Post Officer  
Badiyal Brahamana, Tehsil RS Pura  
District-Jammu 181202

Through:- Mr. S.K. Saini, Advocate  
Mr. B.S. Sarmal, Advocate  
Mr. Amit Singh, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE**  
**HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**JUDGMENT**

**Sanjeev Kumar J**

1. This petition by the Union of India, filed under Article 226 of Constitution of India, is directed against an order and judgment dated 05.08.2021 passed by the Armed Forces Tribunal, Regional Bench,

Srinagar at Jammu, [“the Tribunal”] in OA No. 366/2019 titled “*Lakha Singh Vs. Union of India and others*”, whereby the Tribunal has allowed the OA and held the respondent entitled to the benefit of disability pension at 50% as against 30% for life by giving the benefit of rounding off. The Tribunal, however, restricted the arrears to three years prior to the filing of the petition, i.e., 23.07.2019.

2. The impugned judgment is assailed by the petitioners on multiple grounds. However, before we advert to the grounds of challenge, we deem it appropriate to state few facts as are relevant to the disposal of this petition.
3. Ex. Sep Lakha Singh, the respondent, was initially enrolled in the JAK RIFLES on 21.08.1984 and was discharged on 31.08.2001 under the provisions of Army Rule 13 (3) item III (i) after rendering 17 years and 11 days qualifying service. He was, thus, granted service pension for life by the PCDA (P), Allahabad, vide PPO No. S/033173/2001.
4. The respondent was re-enrolled in Defence Security Corps (DSC) on 03.12.2001. He opted not to count his former service towards DSC service. During the initial term of his engagement, the respondent was placed in low medical category w.e.f. 13.02.2008 to 20.02.2009 for diagnosis of ‘PRIMARY HYPERTENSION’ and ‘DIABETES MELLITUS TYPE-II’. The respondent, though was entitled to an extension of service, was not given such extension due to his placement in permanent low medical category. He was, accordingly, discharged from DSC service w.e.f. 31.12.2011. By the time, he had rendered 10 years and 29 days qualifying service, for which he was paid service gratuity and death-cum-retirement gratuity.

5. Being placed in low medical category, the respondent was brought before a duly constituted Release Medical Board, which assessed his disability 'PRIMARY HYPERTENSION' at 30% for life as aggravated by military service. The respondent was, thus, held entitled to disability element of pension at 30% for life. Since the respondent was denied the service element of pension on the ground that he had not completed the qualifying service of 15 years, as such, he brought his grievance before the Tribunal by way of OA No. 366/2019.
6. The OA was contested by the petitioners primarily on the ground that the respondent was discharged on completion of his term and was not given the extension because of his low medical category status and, therefore, failed to complete qualifying service of 15 years to earn service element of pension.
7. The Tribunal, having considered the rival contentions of the parties, came to the conclusion that in terms of Regulation 266 of the Pension Regulations for the Army, 1961, the personnel of the Defence Security Corps (DSC) were governed by the same general rules of pension as were applicable to combatants of the Army, and as is clear from Regulation 179, which is fully applicable to the DSC service, the respondent having been discharged in low medical category was entitled to both elements of the pension i.e., service element and the disability element.
8. The Tribunal, thus, allowed the OA and granted the reliefs prayed for. The impugned judgment is called in question by the petitioners on the ground that the Tribunal has not appreciated that the respondent was not entitled to service element of pension because he had admittedly

not put in mandatory qualifying service of 15 years. Reliance has been placed on the judgment of the Hon'ble Supreme Court in the case of **“Bhola Singh Vs. Union of India and others”** (Civil Appeal No. 4486 of 2002 on 10.08.2010).

9. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal suffers from no legal infirmity and, therefore, does not call for any interference by us in these proceedings under Article 226 of Constitution of India.
10. Admittedly, the respondent, having been re-enrolled in DSC on 03.12.2001, was discharged on 31.12.2011 due to low medical category. He was, thus, denied further extension in service due to aforesaid reason and, thus, could not complete the qualifying service of 15 years.
11. Had the respondent not suffered from the disability (low medical category), he would have got further extension and would have served up to the age of 57 years and had he been granted the extension and continued up to the age of superannuation, he would have earned to his credit a qualifying service of more than 15 years. His low medical category status/disability resulted in denial of extension to the respondent, which, in turn, did not allow the respondent to complete the mandatory qualifying service of 15 years.
12. That being the position emerging from the admitted fact situation of the case, it needs no emphasis to say that because of the disability, the respondent was not allowed to complete the mandatory qualifying service of 15 years and, therefore, a case of deemed invalidation out of

service of DSC service. As is rightly held by the Tribunal, that as per Regulation No. 266, the personnel of DSC are also governed by the same general rules of pension, as are applicable to the combatants of the Army, except where these are inconsistent with the provisions of the Regulations of the Army 1961. On that analogy, the Regulation 179 would be attracted and shall be applicable to DSC service as well.

**13.** Since the case of the respondent is a case of deemed invalidation out of service and, therefore, he would be entitled to both the elements i.e., service element as well as disability element and this is notwithstanding that the respondent has not completed the mandatory qualifying service of 15 years in DSC. It also needs a mention that in the instant case the respondent was discharged from DSC service on 31.12.2011 and, therefore, his case was covered by the Pension Regulations for the Army, 2008 (Part- I). Regulation 81, which is relevant for our purpose, is set out below:

**81.** (a) *Service personnel who is invalided from service on account of a disability which is attributable to or aggravated by such service may, be granted a disability pension consisting of service element and disability element in accordance with the Regulations in this section.*

**Explanation: -**

*There shall be no condition of minimum qualifying service for earning service element.*

*(b) The question whether disability is attributable to or aggravated by military service shall be determined under the Entitlement Rules For Casualty Pensionary award, 1982 as laid down in APPENDIX-IV of these Regulations.*

**14.** From a reading of Regulation 81 along with explanation appended thereto, it is abundantly clear that a service personnel including a personnel of DSC, who is invalided from service on account of disability which is attributable to or aggravated by such service, is entitled to disability pension consisting of service element and

disability element, and that there shall be no condition of minimum qualifying service for earning service element.

- 15.** Regulation 95 deals with individuals, who are discharged being permanently in low medical category like the respondent herein. The regulation reads as under:

*95. Individual who is placed in a low medical category (other than 'E') permanently and who is discharged because no alternative employment in his own trade/category suitable to his low medical category could be provided or who is unwilling to accept the alternative employment or who having been retained in alternative appointment is discharged before completion of the engagement, shall be deemed to have been invalided out of service under the Entitlement Rules for Casualty Pensionary Awards, 1982 as laid down in APPENDIX-IV to these Regulations. This provision shall also apply to individual who is placed in a low medical category while on extended service and is discharged on that account before completion of the period of his extension.*

- 16.** From a reading of Regulation 95, it clearly transpires that an individual, including a DSC personnel, who is placed in low medical category permanently and is discharged before completion of engagement shall be deemed to have been invalided out of service under the entitlement rules for casualty pensionary awards, 1982. The provision further stipulates that an individual who is placed in a low medical category while on extended service and is discharged on that account before completion of the period of his extension shall also be held invalided out of service.

- 17.** From the above discussion, it clearly transpires that had the respondent been not refused extension in service because of his low medical category permanently, he would have earned extension and completed the mandatory qualifying service of 15 years. He was deprived of doing

so because of the disability and, therefore, cannot be denied the benefit of service element of the pension.

**18.** For all these reasons, we find no merit in this petition and the same is, accordingly, dismissed.

**(SANJAY PARIHAR)**  
**JUDGE**

**(SANJEEV KUMAR)**  
**JUDGE**

**Jammu:**  
08.04.2026  
Shafqat

*Whether this order is speaking: Yes/No*  
*Whether this order is reportable: Yes/No*

