



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

D.B. Civil Writ Petition No. 5056/2026

1. Union of India through its Secretary to the Government of India, New Delhi
2. Chief of the Air Staff, Air Head Quarter, New Delhi
3. Air Head Quarter, DTE of Air Veterans Subroto Park, New Delhi 110010
4. Office of the Deputy Controller of Defence Accounts, Air Force Subroto Park, New Delhi 110010

-----Petitioners

Versus

No. 610812A Ex MWO Prabhu Singh Shekhawat, R/o Plot No.421
Mohan Nagar B, BJS Colony, Jodhpur

-----Respondent

For Petitioner(s) : Mr. Tirupati Chandra with
Mr. Satish Kumar Trivedi, Warrant
Officer.
For Respondent(s) : Mr. Dharampal Singh Dhaka.

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

J U D G M E N T

**RESERVED ON : 11/05/2026
PRONOUNCED ON : 16/06/2026**

Reportable

Per Hon'ble Dr. Justice Nupur Bhati:

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

"xxx.....xxx
(i) The impugned (Annex-3) order dated 4.9.2023 and order dated 21.11.2025 (Annex-5) may kindly be quashed and set aside.
(ii) The arrears with respect to the X-pay pension to Edn Instructor may kindly be restricted to a period of three years, prior to filing of Original Application (Annx.-1) by the respondent.
xxx.....xxx"



2. Brief facts of the case are that the respondent-original applicant was enrolled in the Indian Air Force on 12.08.1970 and, upon completion of 26 years and 20 days of service, was discharged on 31.08.1996 in the rank of Master Warrant Officer (MWO), Group-II. Consequent thereto, he was sanctioned service pension with effect from 01.09.1996 under the applicable PPOs. The respondent-original applicant subsequently claimed that, pursuant to the recommendations of the 5th Central Pay Commission, the trade of "Education Instructor," in which he had served throughout his tenure, stood upgraded from Group-II to Group 'X' with effect from 01.01.1996, thereby entitling him to revised pay, allowances and consequential pensionary benefits. In support of his claim, reliance was placed upon a communication dated 16.11.2015 issued by the Directorate of Personnel Services, Air Headquarters under the Right to Information Act. The respondent-original applicant thereafter submitted representations and a legal notice seeking grant of Group 'X' pay and revision of pensionary benefits; however, the same came to be rejected by the competent authorities on the ground that the trade rationalization pursuant to the recommendations of the Ajit Kumar Committee had been made effective only from 10.10.1997 and did not operate retrospectively. Aggrieved thereby, the respondent-original applicant preferred an Original Application before the learned Armed Forces Tribunal. The present petitioners contested the claim by filing a detailed reply before the learned Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007. The learned Tribunal, vide order dated 04.09.2023, disposed of the Original Application with liberty to the respondent-original



applicant to approach the competent authorities for grant of pay and pensionary benefits in terms of the order passed in OA No.580/2012 titled "*Ex GDR Chhotulal & Ors. v. UOI & Ors.*" and further observed that, in case of any discrepancy, he would be at liberty to submit a detailed representation and thereafter approach the Tribunal afresh. The review application preferred by the present petitioners against the said order also came to be dismissed vide order dated 21.11.2025. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that respondent-original applicant was discharged from service on 31.08.1996 after rendering 26 years and 20 days of qualifying service and was granted pension in accordance with the recommendations of the 5th Central Pay Commission applicable to his rank and group. Learned counsel further submits that the trade rationalization in the Armed Forces, based on the recommendations of the Ajit Kumar Committee constituted by the Ministry of Defence, was implemented with effect from 10.10.1997 and the revised pay scales introduced pursuant thereto were purely prospective in nature without any retrospective application. He further submitted that the petitioner who retired prior to 10.10.1997 was not entitled to the revised pay scales or pensionary benefits flowing from such trade rationalization. Counsel further submits that prior to trade rationalization, trades and groups in the Indian Air Force were categorized in five groups, namely I to V, which were subsequently restructured into X, Y and Z categories with effect from 10.10.1997.



4. Reliance is also placed on the judgment passed in ***Jai Narayan Jakhar v. Union of India & Ors Punjab and Haryana High Court : CWP No.15400/2006 decided on 14.01.2008***, wherein recalculation of pension was directed; however, the law laid down by the Hon'ble Supreme Court in ***Union of India v. Tarsem Singh reported in 2008 8 SCC 648*** mandates that in cases involving belated service claims, arrears are liable to be restricted to a period of three years prior to institution of the proceedings. It is thus contended that since the original application was filed after an inordinate delay of more than 21 years, the learned Tribunal erred in not restricting the arrears accordingly and no interest on arrears could have been granted.

5. On the other hand, learned counsel appearing for the respondent supported the order passed by the learned Tribunal and submitted that the same is legal, well-reasoned and based upon settled principles of law. It was contended that the learned Tribunal has rightly placed reliance upon the judgment rendered in ***Jai Narayan Jakhar v. Union of India & Ors.***, wherein the respondent authorities were directed to re-calculate the pension. Learned counsel further submitted that the controversy involved in the present case is no longer res integra and stands conclusively settled by the Hon'ble Supreme Court in the case of ***Union of India through its Secretary and Ors. v. SGT Girish Kumar and Others reported in 2026 SCC Online SC 194***, wherein the Hon'ble Apex Court *upheld* the entitlement of similarly situated personnel to disability pension together with the benefit of broad banding with effect from 01.01.1996 or 01.01.2006, as the case





may be, along with interest @ 6% per annum. He further placed reliance upon the Judgment Union of **India v. Ram Avtar reported in [(2014) SCC Online SC 1761]**. The Learned counsel further submitted that the recommendations relating to trade rationalization and removal of anomalies in pay scales, as contained in Chapter-II Para 2.2.5 of the Raksha Mantri's Committee of Experts, 2015, clearly envisaged that the revised and rationalized scales, though formally notified subsequently, were to take effect from 01.01.1996 itself pursuant to the Gazette Notification issued by the Government of India with due approval of the Cabinet.

6. Learned counsel thus submitted that the respondent is legally entitled to all consequential service and pensionary benefits flowing from the upgraded Group 'X' classification with effect from 01.01.1996 and, therefore, the impugned order passed by the learned Tribunal warrants no interference by this Court.

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

8. The controversy involved in the instant writ petition revolves around two issues; firstly, whether the petitioners' contention that introduction of new pay scale (5th Central Pay Commission) with effect from 10.10.1997, has no retrospective effect and the personnel who retired before 10.10.1997, are not eligible for pay scales and pensionary benefits, introduced with effect from 10.10.1997 and secondly, the issue as to whether the law laid down by Hon'ble Supreme Court in the case of **Union of India & Ors. v. Tarsem Singh** reported in **[(2008) 8 SCC 648]**, that there should be a restriction of arrears of maximum three years



period, prior to filing of the Original Application/Writ Petition, in case of an inordinate delay claims, would apply in the case of respondent.

THIS COURT, FOR ADJUDICATING THE INSTANT WRIT PETITION, TAKES INTO CONSIDERATION THE ISSUE NO.1:

8.1. It is an admitted fact, that the respondent had rendered 26 years and 20 days' of qualifying service and was discharged with effect from 31.08.1996. The respondent was also drawing the pension with effect from 01.09.1996, which was subsequently revised with effect from 10.10.1997. In order to decide the issue No.1, this Court takes into consideration the report of the Ministry of Defence (Annex.9 of the OA) published in the year 2015; in which, Chapter II, deals with litigation and denial of revised pay scales from 1996 till 2009 to the pensioners. The said report clearly reflects that the revised pay scales arising out of implementation of the 5th Central Pay Commission with effect from 10.10.1997, was required to be extended to the personnel with effect from 01.01.1996 and not with effect from 10.10.1997. Further, the report categorically states that the fresh scales introduced with effect from 10.10.1997, were bound to take effect from 01.01.1996 as per the Gazette Notification, issued by the Government of India, which had the due approval of the Cabinet Committee and that the restriction of giving effect to the revised pay scales with effect from 10.10.1997 onwards, was considered to be null and void.

8.2. Further, from the perusal of the Notification dated 10.10.1997, it unequivocally reflects that the revised pay scales of pay were made effective from 01.01.1996, which is also reiterated





in the report of Ministry of Defence. From the perusal of the report of the Ministry of Defence, it appears that anomaly that crept in, has been removed by giving the clarification that the revised pay scales arising out of the 5th Central Pay Commission, are required to be given effect from 01.01.1996 and once the anomaly has been removed, the contention of the petitioners that the Gazette Notification of the Government of India dated 10.10.1997 cannot be given a retrospective effect to the personnel like the respondent who was discharged from service with effect from 31.08.1996, does not hold water, and thus, as far as the issue No.1 is concerned, the learned Tribunal has committed no error.

For reference, relevant part of Chapter II, from the report of Ministry of Defence, Raksha Mantri's Committee of Experts, 2015 (hereinafter referred to as 'the Report of 2015'), is reproduced hereunder:

"CHAPTER II INTRODUCTION

LITIGATION ON DENIAL OF BENEFITS FROM 1996 TILL 2009 TO PENSIONERS (OTHER THAN COMMISSIONED OFFICERS) WHO RETIRED PRIOR TO 10-10- 1997:

XXX.....XXX

The Committee recommends the following on the above subject:

(a) The fresh scales introduced **with effect from 10-10-1997 were bound to take effect from 01-01-1996 as per the gazette Notification issued by the Govt of India** which had the due approval of the Cabinet (Para 1(b) and 4 of Annexure-15). **Any later executive instructions restricting the effect from 10-10-1997 onwards** is null and void in the face of the gazette Notification and **hence all litigation initiated** on the said point (popularly known as Jai Narayan Jakhar's case) is unethical and **needs to be withdrawn**, whether it comprises Review Applications in the AFT or in the High Courts or appeals in the Supreme Court since the issue specifically has been upheld by the Supreme Court in Jakhar and Bishnoi cases (supra).

(b) The above view **is also fortified by various decisions of the Supreme Court in which it has been held that once an anomaly is removed, it needs** to be removed from the date of its inception with full arrears from backdate



and not an artificial future **cut-off date**. Prominent amongst such decisions are KT Veerappa Vs State of Karnataka 2006 (9) SCC 406, Civil Appeal 1123/2015 State of 42 Rajasthan Vs Mahendra Nath Sharma decided on 01-07-2015 and Civil PENSIONARY AND RETIRAL MATTERS Appeal 8875/2011 Union of India Vs Sqn Ldr Vinod Kumar Jain decided on 17-03-2015.

(c) That even otherwise, whenever such anomaly has been removed from the scales of other classes of employees, including civilians and commissioned officers, the said rectification in pension or pay and allowances has always taken effect from the date of implementation of recommendations of the pay commission, and not any future cut-off date. For example, when the new pay grade of Rs 67000-79000 was implemented for Additional Secretaries to Govt of India and Lt Gens in 2009, it was implemented with effect from 01-01-2006 for pay and allowances purposes of serving officers and for pension calculation purposes for pre-2006 retirees whose pensions were now based on the freshly introduced scales of 2009 with financial effect from 01-01-2006. Similar is the case for all other ranks and grades. Hence, it makes no logic to treat lower ranks of the three defence services differently. Even the arrears in the "rank pay" case, after the decision of the Supreme Court, were granted to all officers recently with effect from 01-01-1986 with interest.

(d) **Though we are not recommending promulgation of fresh policy in this regard since we are now at the cusp of the next pay commission, the litigation in the form of appeals and reviews pending before the Supreme Court, High Court and various Benches of AFT may be immediately withdrawn by the Ministry of Defence/Services HQ since it is not only unethical but also a burden on the exchequer as well as the litigants since the issue stands long settled by the Supreme Court and is covered by the Government's own gazette Notification. Pending/future cases be conceded on same lines by agreeing to grant of benefits from 01-01-1996 till 30-06--2009 without any restriction of arrears in light of the Gazette Notification on the subject."**

THIS COURT, NOW, TAKES INTO CONSIDERATION, THE

ISSUE NO.2:

8.3. The second issue raised by the petitioners is that, if at all the petitioners are extending the said revised pay scales, it ought to have been restricted to maximum three years prior to filing of the Original Application before the learned Tribunal, as the petitioner has alleged that there is an inordinate delay of almost 21 years on the part of the respondent in filing the OA before the learned Tribunal. Admittedly, the Gazette Notification for the purpose of





implementation of 5th Central Pay Commission, was issued on 10.10.1997. The respondent was discharged from services with effect from 31.08.1996, however, the petitioners have gravely erred in calculating the delay with effect from 31.08.1996. The personnel like respondent cannot be made to suffer for the error on part of the petitioners, which is reflected from the report of the Ministry of Defence.

8.4. It is also reflected from the perusal of the report that the said anomaly has been removed by way of the decision passed by the Committee in the said Report of 2015. Thus, the respondent had no occasion to file an original application before the learned Tribunal, prior to removal of the said anomaly, and his rights accrue from the date when this report came into existence i.e. 2015 and the respondent has filed OA before the learned Tribunal on 09.01.2017.

8.5. This fact is also admitted that the respondent was already in receipt of the pension and pensionary benefits of Rs.1,400/- from the pay scale which came into effect from 01.09.1996, which was subsequently revised by the petitioners @ Rs.4,486/- per month. In the case of **Union of India & Ors. v. SGT Girish Kumar & Ors.** reported in **[(2026) SCC Online SC 194]** decided on 12.02.2026, the Hon'ble Apex Court, while distinguishing the case of *SGT Girish Kumar (supra)* with the case of **Union of India & Ors. v. Tarsem Singh** reported in **[(2008) 8 SCC 648]**, has held that right of the petitioner in the case of *SGT Girish Kumar (supra)*, accrued only on 10.12.2014 i.e. when the decision rendered by the three-Judge Bench of Hon'ble Supreme Court came in the case of **Union of India v. Ram Avtar** reported in



[(2014) SCC Online SC 1761], was rendered along with the observation that the case of *Tarsem Singh (supra)*, has no application to the case in hand, as ex-servicemen in the were already in receipt of disability pension and were only seeking re-computation of the disability pension. Relevant para of the case of *SGT Girish Kumar (supra)*, reads as thus:

"xxx.....xxx

22. *The reliance placed by the appellant on the decision of a two-Judge Bench of this Court in Tarsem Singh (supra) is of no assistance to it, as the legal landscape did not remain static after decision in Tarsem Singh. Subsequently, a three-Judge Bench of this Court in Ram Avtar (supra), decided the issue of applicability of instruction dated 31.01.2001 and the aforesaid decision is in rem. For, yet another reason, the decision in Tarsem Singh (supra) has no application to the case in hand as ex-servicemen in the instant appeals are already in receipt of disability pension and are only seeking re-computation of the disability pension. The right to approach the Tribunal accrued to ex-servicemen only on 10.12.2014 i.e., when the decision in Ram Avtar (supra) was rendered by this Court. Therefore, the bar contained in Section 22(1)(c) of the Act has no application to the claims filed by the ex-servicemen before the Tribunal. In the facts and circumstances of the case, we find that the original applications filed by the ex-servicemen do not suffer from any delay or laches disentitling them from claiming the relief of arrears of disability pension. Thus, the objections founded on the delay and limitation are without any merit.*

xx.....xx"

9. This Court is of the considered view that the claim pertaining to arrears arising out of pensionary benefits constitutes a continuing wrong, giving rise to a recurring and successive cause of action with each denial or short payment of the pension due to the claimant, in light of the judgment passed in the case of *Tarsem Singh (supra)*. In the present case, no third-party rights have been created; therefore, any delay in filing the original application does not adversely affect or prejudice the rights of any third party.





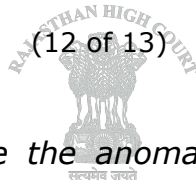
10. We are of the considered opinion that in the case in hand, law laid down in the case of Tarsem Singh (supra) is not applicable; firstly, because the right to approach the learned Tribunal accrued to the respondent only after publication of the Report of 2015, issued by the Ministry of Defence and secondly, the respondent is already in receipt of pension and pensionary pay scale and had preferred the Original Application before the learned Tribunal with a prayer for re-computation of the pay scale upon implementation of the 5th Central Pay Commission with effect from 10.10.1997.

11. This Court also takes into consideration the judgment passed by the High Court of Punjab and Haryana at Chandigarh, in the case of **Jai Narayan Jakhar v. Union of India & Anr. (CWP No.15400 of 2006)** decided on 14.01.2008; wherein, in similar set of circumstances, the writ petition was allowed while holding the decision of respondents in giving the said revised pay scale benefits, with effect from 10.10.1997, to be not justified and it was held that the petitioner was entitled to the revised pay scale from 01.01.1996; against which, Union of India preferred Special Leave to Appeal (Civil) bearing No.128/2008, which came to be dismissed vide order dated 21.11.2008. Relevant part of the order passed by the High Court of Punjab and Haryana at Chandigarh, in the case of *Jai Narayan Jakhar* passed in CWP No.15400 of 2006, reads as under:

"xxx.....xxx"

Having heard the learned counsel for the parties, we are of the opinion that the stand of the respondents that the petitioner is not entitled to the benefit of removal of anomaly in the Pay Commission report, is wholly unjustified. It was during the implementation of 5th Pay Commission report, it was found by the respondents that there is anomaly





in the Pay Scales. Once the anomaly in the Pay Scales is found and sought to be removed then it has to be removed from the implementation of the recommendation of the Pay Commission i.e. 01-01-1996. There is no explanation as to why the said anomaly is sought to be removed from 10-10-1997. In the absence of any explanation of removal of anomaly from 10-10-1997, we do not find the action of the respondents fixing such date as justified. Consequently, we hold that the petitioner is entitled to the revised pay scale of 5620-140-8140/- w.e.f. 01-10-1996. Thus, the petitioner shall be entitled to the retiral benefits on the said pay scale.

In view of the above, we allow the present writ petition and direct the respondents to recalculate the amount of pension on the basis of revised pay scale of 5620-140-8140/- w.e.f. 01-01-1996. The exercise be completed within a period of three months from today.

The writ petition stands disposed of in above terms."

12. While condoning the delay occasioned in the filing the SLP, the Hon'ble Apex Court dismissed the same. The order dated 21.11.2008 is reproduced hereunder:

"Delay condoned.

The Special Leave petition is dismissed."

13. This Court is of the considered view that the petitioners are fully aware of the fact that the issue involved in the case of *Jai Narayan Jakhar v. Union of India (CWP No.15400 of 2006)*, has been put to rest by the Hon'ble Apex Court vide order dated 21.11.2008 passed in Special Leave to Appeal (Civil) No.128 of 2008 and facts of the aforesaid case are almost similar to the facts in the present case. Despite having the knowledge of the aforesaid facts, the petitioners have denied the respondent similar treatment that has already been extended to the above-said similarly situated employee. No plausible, cogent, or legally sustainable explanation has been furnished by the petitioners to justify such discriminatory treatment, meted out to the respondent, who has been constrained to pursue this litigation for





nearly nine years. Such conduct on part of the petitioners is wholly contrary to the principles of equality, fairness, and fair play, and amounts to gross arbitrariness.

14. In view of the discussion made hereinabove, we do not find any ground warranting interference with the order dated 04.09.2023 (Annex.3). The order dated 21.11.2025 (Annex.5) passed by the Armed Forces Tribunal, Jaipur Bench, Jaipur (Circuit Bench Jaipur), in the review petition No.13/2025 titled "*Union of India & Ors. v. Ex MWO Prabhu Singh Shekhawt*", is affirmed and upheld.

15. The instant writ petition stands dismissed in the above terms. Stay application as well as all other pending applications, if any, also stand disposed of.

16. However, looking to the conduct of the petitioners, they are directed to pay a cost to the tune of Rs.15,000/- to the respondent. The petitioners are further directed to ensure release of all consequential pay-scale revisions and pensionary benefits accruing to the respondent pursuant to the implementation of the 5th Central Pay Commission, within a period of four weeks from the date of receipt of certified copy of this order.

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

Devesh Thanvi/-