

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

18.

OA 960/2026

Colonel B. K. Chhimwal(Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. K. R. Verma, Advocate
For Respondents : Mr. Jatin Teotia, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
27.03.2026

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, applicant seeks payment of arrears of disability benefits w.e.f. 01.01.2012. Claiming disability benefit, the applicant initially invoked the jurisdiction of this Tribunal by filing an application under Section 14 of the Armed Forces Tribunal Act, 2007, being OA 918/2019 Col B. K. Chhimwal (Retd) Vs. Union of India and Ors, as disability benefit was denied to him by the respondents holding it to be not attributable or aggravated by military service. The Coordinate Division Bench of this Tribunal by a detailed Order passed on 15.09.2022 allowed the application and held that the applicant's disability is attributable to military service, therefore, the applicant is entitled to disability element of pension and benefit was granted to him. However, while granting the benefit,

the arrears were restricted to be paid 03 years prior to filing of the OA, i.e., 03 years prior to 21.09.2019. After the OA was disposed of, the matter came up in execution. The execution was also done by the Competent Authority on 21.05.2025 and the PPO was also issued on 12.06.2025. In the meanwhile, respondents, Union of India challenged the order passed by this Tribunal in the OA 918/2019 before the Hon'ble Delhi High Court. The Hon'ble High Court by a detailed order passed in WP(C) 15375/2024 on 28.11.2024 dismissed the Writ Petition. After dismissal of the writ petition, the order stood complied and the litigations between the parties came to an end with the issuance of PPO on 12.06.2025. However, subsequently, the Hon'ble Supreme Court in (CA 6820-6824 of 2018) Union of India through Its Secretary and Ors. Vs. Sgt Girish Kumar decided certain petitions in the matter of payment of arrears of pension and by a judgment rendered on 12.02.2026 held that in certain cases, the law settled in the case of Union of India Vs. Tarsem Singh, restricting the arrears, will not apply and restriction of 3 years in payment of arrears of pensionary benefits cannot be imposed.

2. In this case, based on the law laid down in the case of Sgt Girish Kumar (Supra), now the applicant wants that entire arrears without restriction, should be paid to him in the light of the subsequent judgment of the Hon'ble Supreme Court.

3. Having heard learned counsel for the parties we find that once the *lis* between the parties has been settled and it has been implemented in its totality, merely on the basis of a subsequent judgment rendered by a higher Court much after the *lis* was settled between the parties, the dispute which was earlier settled in the matter finally decided and complied with, in accordance with the requirement of law, cannot be reopened and further benefits granted. The said principle has been culled out to ensure finality in litigation, so that issues already decided and settled by judicial pronouncement are not reopened merely on the ground that the earlier principle of law has been altered in a subsequent decision by a higher Court. On this ground alone, this application is liable to be and is rejected.

4. As far as applicability of judgment in the case of *Sgt Girish Kumar (supra)* to all cases are concerned, we are of the considered view that after hearing learned counsel for the parties, we deem it appropriate to consider the said issue and we herein propose to decide it in the following manner:-

5. The issue is as to whether in the light of the law laid down in the case of *Sgt Girish Kumar (Supra)*, the contention of the respondents that arrears should not be restricted to 3 years from the date of filing of this application needs consideration.

6. On going through the judgment rendered by the Hon'ble Supreme Court in the case of *Union of India through Its Secretary*

and Ors. Vs. Sgt Girish Kumar (CA 6820-6824 of 2018), it is seen that Union of India filed Special Appeal under Section 30 of the Armed Forces Tribunal Act, 2007 before the Hon'ble Supreme Court on account of conflicting decisions of the AFT concerning the period for which arrears of disability be payable. The Hon'ble Supreme Court noted, that in certain cases with regard to the payment of arrears of disability pension, the arrears have been restricted to a period of 3 years prior to filing of the application. The case before the Hon'ble Supreme Court arose because Sgt Girish Kumar, enrolled in the Indian Armed Force on 30th March, 1988, was discharged on 30th March, 2008 after completion of his tenure. At the time of discharge, he was assessed with disability attributable to and aggravated by military service which, quantified at 20% for life, and was accordingly granted disability pension @ 20% for life. However, after judgment of the Hon'ble Supreme Court in Civil Appeal 418/2012, ***Union of India and Ors. Vs. Ram Avtar, Sgt Girish Kumar (Supra)*** approached the AFT on 20th October, 2016 by filing an Original Application under Section 14 of the Armed Forces Tribunal Act, 2007 seeking broad banding of his disability pension benefit from 20% to 50% in view of the instructions and policies issued by the MoD, Government of India on 31.01.2001 in the matter of implementing the government's decision on the basis of recommendation of the 5th CPC regarding disability

pension, war injury pension, special family pension, liberalized family pension, dependent family pension etc., to Armed Forces Personnel and officers who are invalidated out of service on or after 01.01.1996 and the issue of broad banding of the disability as stipulated in para 4.1 of the instructions dated 31.01.2001. As the instructions contained in the letter dated 01.01.2001 were being implemented by a communication made on 21.07.2006 issued by the Adjutant General Branch of the Integrated Headquarters of MoD(Army) and the benefit of broad banding was only being granted to such personnel who are invalidated out of service prior to 01.01.1996, the matter came to the Hon'ble Supreme Court and in para 12 and 13 of the order passed in the case of Sgt Girish Kumar (Supra), the Hon'ble Supreme Court dealt with the issue in the following manner:-

“12. However, the instructions dated 31.01.2001 denied the benefit of broad banding of disability pension to ex-servicemen who superannuated from services with disabilities. The validity of the aforesaid instructions insofar as it deprived the benefit of broad banding of disability pension to ex-servicemen was challenged before the Tribunal. The Tribunal by an order dated 04.08.2010 struck down the aforesaid instruction to the limited extent and held that ex-servicemen who superannuated with disabilities are also entitled to the benefit of broad banding of disability pension.

13. The validity of the orders passed by the Tribunal was challenged in batch of appeals. A

three-judge Bench of this Court in Union of India and Others v. Ram Avtar (Supra), by an order dated 10.12.2014 dismissed more than 800 appeals filed by the Union of India challenging grant of broad banding of disability benefit by tribunals to Armed Forces Personnel other than ‘invalidated out’ from service. This Court ruled that an Armed Force Personnel retiring on completion of tenure with disability aggravated by or attributable to Military Service is eligible for broad banding of disability pension/element. This Court directed all the Courts and Tribunals to take note of the judgment and further directed Union of India to give effect to the orders passed by this Court within six weeks.

(Emphasis supplied)”

And observed that the legal position continued to be uncertain until it was settled by the three-judge Bench judgment in the case of *Ram Avtar (Supra)*.

7. In the case of *Ram Avtar(supra)*, the impediment was removed and thereafter the benefit of broad banding of disability pension was available to all pensioners who are invalidated out or otherwise superannuated with disability at the time of superannuation. While doing so, the Hon’ble Supreme Court has taken note of various aspects of the matter. In the matter of considering the question of restrictions on payment of arrears, from para 17 onwards Hon’ble Supreme Court considered the submissions made by the Union of India, took note of all the earlier judgments and finally in para 20 discussed the issue in the following manner:-

“20. This Court has, in a consistent line of decisions, recognized that right to receive disability pension is a valuable right and once found due, the benefit of the same has to be given from the date it became due. The same cannot be curtailed by restricting the benefit to a period of three years preceding the filing of the original application. In the absence of any compelling reasons to take a different view, we find no justification to depart from the view consistently taken by this Court.

(Emphasis supplied)”

8. Thereafter, in para 21 and 22 in the case of *Sgt Girish Kumar*, the Hon’ble Supreme Court discussed the issue in the following manner:-

“21. The contention advanced on behalf of the Union of India that the claim for arrears of disability pension is barred by Limitation Act, cannot be accepted. The issue with regard to broad banding of disability pension attained finality only on 10.12.2014. Thereafter, Union on India in the order dated 18.04.2016 addressed to Chiefs of Army, Navy and Air Force acknowledged in clear terms that arrears of disability pension were to flow from 01.01.1996 without any curtailment. Therefore, in the facts and circumstances of the case, the contention that the claims of ex-servicemen were barred by limitation does not deserve acceptance.

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.

(Emphasis Supplied)”

In the case of *Sgt Girish Kumar (Supra)*, the Hon’ble Supreme Court dismissed the SLP filed by the Union of India by holding that the restriction of 3 years cannot be applied in these cases (i.e., case where the issue of right to receive disability benefit was not in dispute and the dispute was only for re-computation). The issue before us is as to whether the restriction of 3 years as laid down in the case of *Tarsem Singh (Supra)* will no more apply in all cases where disability pension is to be granted or is there any category of cases where restrictions in payment of arrears can still be applied by this Tribunal based on the law laid down in the case of *Tarsem Singh (Supra)*? That being so, at this stage, it would be appropriate to take note of the judgments in the case of *Tarsem Singh* and *Ram Avtar(supra)*.

9. In the case of *Tarsem Singh (supra)*, Tarsem Singh was working in Indian Army and was invalidated out of service in medical category on 13.11.1983. He approached the High Court after about 13 years in the year 1999 seeking directions to pay him disability pension. The learned single judge of the High Court allowed the writ petition on 06.12.2000 and directed that the appellant be granted disability pension and as far as arrears were concerned it was restricted to be paid for a period of 38 months prior to filing of the Writ Petition. Tarsem Singh being not satisfied with the judgment, filed a Letter patent Appeal before the Division Bench of the Hon'ble High Court and challenged the order passed by the learned single judge on 06.12.2000. The Division Bench held that Tarsem Singh was entitled to disability pension from the date it fell due and it should not be restricted to a period of 3 years and two months prior to filing of the writ petition. The Division Bench also granted interest on the arrears @ 6% per annum. This judgment was challenged by Union of India before the Hon'ble Supreme Court in the case of *Union of India and Ors. Vs. Tarsem Singh* (2008) 8 SCC 648 and from para 4 onwards, the Hon'ble Supreme Court considered the principle underlying the concept of continuing wrong/recurring/successive wrong and its applicability to service law dispute. The Hon'ble Supreme Court in para 4 found that a continuing wrong refers to a single wrongful act which causes a

continuing injury, i.e., a recurring injury or successive wrong, thereafter, it referred to various judgments and in para 7 summarized the principles of law in the following manner:-

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. IF the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.

(Emphasis supplied)”

Thereafter in para 8, the Hon'ble Supreme Court held as under:-

“8. In this case, the delay of sixteen years would affect the consequential claim for arrears. The High Court was not justified in directing payment of arrears relating to arrears to only three years before the date of writ petition, or from the date of demand to date of writ petition, whichever was lesser. It ought not to have granted interest on arrears in such circumstances.”

10. In the case of **Ram Avtar**, the issue before the Hon'ble Supreme Court was, that, when a member of the Armed Force is retired on attaining the age of superannuation or on completion of his tenure of engagement and if he is found to be suffering from some disability which is attributable to or aggravated by military service, is he also entitled to grant of benefit of rounding off of the disability pension as laid down in the policy issued by the MoD on 31.01.2001. Finding that making available the aforesaid benefit only to persons who are invalidated out of service is not proper and the Hon'ble Supreme Court held that the concept of rounding off of disability benefit, as implemented by the Government of India by instructions dated 31.01.2001, should be made applicable even to those individuals who are superannuated from service or retired on completion of their tenure and upheld the judgments rendered by the Armed Forces Tribunal in doing so.

11. While considering this issue as detailed hereinabove, in the case of **Sgt Girish Kumar (supra)**, in para 22 of the judgment, the

Hon'ble Supreme Court took note of the law laid down in the case of *Tarsem Singh(supra)* and the subsequent judgment in the case of *Ram Avtar*. It held that the law laid down in the case of *Ram Avtar(supra)* is a decision *in rem* and, therefore, the restriction on payment of arrears will not apply. Thereafter, the Hon'ble Court goes on to say that for another reason, the decision in the case of *Tarsem Singh(supra)* will not have any application to the cases in hand, (meaning thereby that cases arising out of the law laid down in the case of *Ram Avtar (supra)*)are different from those governed by *Tarsem Singh (supra)*, as ex-servicemen in the appeals before the Hon'ble Supreme Court, i.e., in the case of *Ram Avtar (Supra)* were already in receipt of the disability pension and are only seeking re-computation of the disability benefit. The right to these ex-servicemen accrued on 10.12.2014, when the law was laid down by the Hon'ble Supreme Court in the case of *Ram Avtar(supra)*.

12. In the case of Ram Avtar, the question being considered was with regard to grant of benefit of rounding off, i.e., re-computation of the disability benefit from 20% to 50%, 50% to 75% and 75% to 100% to employees who are already invalidated out or superannuated from service and in their cases there was already a computation of the benefit of disability and they were getting disability pension which was to be re-computed based on the policy of the government of India, i.e., to be enhanced to 50%,

75% and 100% respectively. Under such circumstances, the Hon'ble Supreme Court has held that where the benefit of disability is already computed and as the broad banding is nothing but re-computation of disability benefit already available, the restrictions on arrears would not apply. The consequence of this finding is that in a case where the employee on being invalidated out of service or on being discharged on superannuation is not granted any disability benefit on the ground that the disability suffered by him is neither aggravated nor attributable to military service and such an employee sleeps over his right, permits the period of limitation prescribed under Section 22 to lapse and approaches this Tribunal after a long period of time in some cases beyond 10 to 20 or 25 years, can in such cases while directing for grant of disability benefit, the arrears be restricted? In such cases, the right to receive the disability pension itself is in dispute and this dispute is determined/ adjudicated for the first time by this Tribunal while adjudicating the matter in a proceeding under Section 14 of the Armed Forces Tribunal Act, 2007 and the delay in adjudication of this matter and determination of his right to receive disability benefit was only because of the applicant not approaching the Court or Tribunal, i.e., within the period of limitation prescribed by law. When the computation of disability and entitlement to claim disability benefit is determined by the Tribunal or a Court

for the first time in such cases, the principle laid down in the case of *Tarsem Singh (Supra)* will apply and the restriction of 3 years in payment of arrears can always be imposed. The Hon'ble Supreme Court while dealing with the issue in the case of *Sgt Girish Kumar (Supra)* considered cases where the disability was already assessed and the only dispute was with regard to its re-computation and in our considered view, the discussion in para 7 in the law laid down in the case of *Tarsem Singh (supra)* permits in such cases to restrict the arrears to 3 years.

13. The Hon'ble Supreme Court summarizes the issue, before the Court for its determination in para 8 of its judgment rendered in the case of *Sgt Girish Kumar (Supra)* in the following manner:-

“8. The solitary issue which arises for consideration is whether the benefit of arrears of disability pension can be restricted to three years prior to filing of the original applications before the Tribunal.”

14. Recently, the principle of limitation and the question of applicability of the law laid down in the case of *Tarsem Singh* was considered by the Hon'ble Supreme Court in various civil appeals decided just few days back on 24th March, 2026 in CAs arising out of Diary No. 27246/2023 *Union of India and Ors* Vs. *Balakrishnan Mullikote Ex Hav)* and other cases and about 49 civil appeals pertaining to grant of Second service pension to DSC employees were adjudicated by the Hon'ble Supreme Court. While considering the issue, granting second service pension to

retired DSC employees, after taking note of the arguments advanced by the parties one of the issues considered by the Hon'ble Supreme Court in the said case pertains to the issue of limitation. In para 43, the Hon'ble Supreme Court considered the issue of limitation in the matter of payment of arrears, referred to the law laid down in *Tarsem Singh(Supra)* and also considered the principle enunciated by the Hon'ble Supreme Court in the case of *Sgt Girish Kumar(supra)* and in para 43 discussed the issue in the following manner:-

“Issue of Limitation

43. Since the judgment of this Court in Union of India & Ors. Vs. Tarsem Singh, (2008) 8 SCC 648 was not invoked during the course of arguments, this Court refrains from examining the issue of limitation in the present matter. Nonetheless, it is pertinent to note that a recent coordinate Bench, in Union of India through its Secretary & Ors. Vs. SGT Girish Kumar & ors., 2026 SCC OnLine SC 194, has reaffirmed the settled principle that pension is neither a bounty nor an ex gratia payment dependent upon the largesse of the State. It constitutes a deferred portion of compensation for past service, which, upon fulfillment of the governing conditions, matures into a vested and enforceable right. Pensionary entitlements, therefore, partake the character of property and cannot be withheld, curtailed, or extinguished save by authority of law. The relevant portion of the judgment passed by the coordinate Bench in Union of India through its Secretary & Ors. Vs. SGT Girish Kumar & Ors. (supra) is reproduced hereinbelow:-

“.....This Court has, in a consistent line of decisions, recognized that right to receive disability pension is a valuable right and once found due, the benefit of the same has to be given from the date it became due. The same cannot be curtailed by restricting the benefit to a period of three years preceding the filing of the original application.....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*..... Thus, the objections found on the delay in limitation are without any merit....

In any event the said question of law is left open.”

(Emphasis supplied)”

and finally after reproducing the portion of the judgment in the case of ***Sgt Girish Kumar(Supra)*** held that in any event the said question of law is left open.

15. There are exceptions to this principle discussed by us hereinabove, where the Medical Board or the Competent Authority has already assessed the disability to be attributable to or aggravated by military service and in spite of such findings being recorded, disability benefits are denied by Administrative/executive Authorities. In such cases the issue of entitlement of disability having already been determined by a

Competent Medical Board or authority, merely because an employee approached the Tribunal belatedly, the restriction on payment of arrears cannot be imposed. In our considered view the restriction can be imposed only in such cases where at the time of invalidment or superannuation, the disability is held not aggravated or attributable to military service. However, if the employee is found to be suffering from disability aggravated or attributable to military service and still the benefit is not granted, the law laid down in the case of *Sgt Girish Kumar(Supra)* will squarely apply as these are all cases where the disability is already determined and computation done by the medical Board or Competent authority.

16. In view of the above, we are not inclined to interfere into the matter as the applicant's disability in this case was initially held as neither attributable to nor aggravated by military service. It was held to be attributable to or aggravated only by this Tribunal vide order passed in OA 1918/2019 on 15.09.2022.

17. Accordingly, OA stands dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

Priya