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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision : 30.01.2026

+ **W.P.(C) 1299/2026 & CM APPL. 6336/2026**

EX CADET JAI SWARUP WAL

.....Petitioner

Through: Ms. Shruti Rawat and Mr. PRashant
Negi, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Dr. Vijendra Singh Mahndiyan CGSC
for R-1 to R-4.
Mr. Bharat Sharma, GP with Major
Anish Muralidhar

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 6337/2026 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 1299/2026 & CM APPL. 6336/2026

3. This petition has been filed with the following prayers:-

“(a) Issue writ petition under Article 226 of the Constitution of India for issuance of an appropriate Writ, Order or Direction calling for the records on the based on which the Respondents have issued various orders including order dated 13.05.2019 and also denied disability pension as well as Ex-gratia award to the Petitioner treating his disability as Neither Attributable



to Nor Aggravated by Military Service as well as issuing a discriminatory policy dated 16.07.2020 vide which the invaliding pension has been denied to the cadets like the Petitioner by fixing a cut-off date arbitrarily w.e.f. 04.01.2019 and granting such benefit to only those service personnel other than cadets who have been invalidated out of service post 04.01.2019 and thereafter quash all such orders.

(b) Further issue a writ of mandamus or any other appropriate writ for directing the Respondents to accept the recommendation of Raksha Mantri's committee of experts report of granting the gentlemen cadets disability pension and other consequential benefits including broad banding at par and at the same rate as admissible to the officers of the regular forces on their Invalidment from service on medical grounds for attributable/ aggravated causes and in alternative for grant of Invalidment pension to the Petitioner by directing suitable modification in the impugned policy to extend the benefit of policy dated 16.07.2020 to Invalidment cases including cadets who were invalidated prior to 04.01.2019.

(c) Pass such other writ(s), order(s), or direction(s) as this Hon'ble Court may deem just, fit, and proper in the facts and circumstances of the present case and in the interest of justice."

4. In substance, the petitioner herein is challenging the impugned letter dated 13.05.2019 whereby, the respondents have rejected the claim of the petitioner for grant of disability pension, on the ground of non-availability of Invalidity Medical Board (IMB) proceedings and the case of the petitioner being time barred.

5. Ms. Shruti Rawat, learned counsel for the petitioner states that the petitioner was medically invalidated during pre-commission training to a disability attributable to and aggravated by military service. She states that as per policy of 1954 vide letter bearing No. F.298/PR/4944-B/D(PP) dated 27.05.1954, in case of disablement or death of officer cadets on account of



injuries/ diseases having causal connection with their training conditions, payment of disability/ dependents pensions would be made *ex-gratia*, on compassionate grounds, on an *ad hoc* basis on the merits of each individual case.

6. Her submission is that the petitioner, during his initial phase displayed remarkable discipline. On 04.09.1965, during an intensive training routine, the petitioner experienced a sudden onset of acute dyspnoea (breathlessness), and was admitted to MH, Khadakwasla, where he was diagnosed with Spontaneous Pneumothorax (Right). In light of the seriousness of his condition, he was referred to MH, Aundh on 15.09.1965 for further medical management. While in Ajmer, the petitioner suffered a second attack of acute dyspnoea. He received immediate local treatment and was later admitted to MH Nasirabad on 30.12.1966 from where he was again referred to MH Aundh on 10.02.1967. Radiological examination indicated partial recovery, showing fair expansion of the upper lobe of the right lung. Although the petitioner was no longer experiencing dyspnoea or coughing during moderate exertion and had no history of haemoptysis, his condition was declared unfit for further military training.

7. She further states that the petitioner was presented before an IMB on 12.04.1967, which found him unfit for further training. The recommendation of the IMB was approved by the competent authority, and the petitioner was formally invalided out of service on 17.06.1967, without the grant of any disability pension, medical benefits, or institutional support. The condition of the petitioner directly arose during and due to the stress of the military training. Hence, the rejection of the benefits are grossly arbitrary, discriminatory and in violation of Article 14 & 21 of the Constitution of



India. She states that Spontaneous Pneumothorax in its pathophysiology and clinical presentation, is medically comparable to the conditions listed in the Appendix to the GMO 1955 as it involves similar pleural compromise, respiratory distress, and prolonged recovery or permanent limitation of pulmonary function.

8. She challenges the impugned order on the ground that the respondents failed to advance the benefits of the policy of 1954 to the petitioner, which covers the petitioner *in toto*. Before the petitioner was sent for training, he was found fit in all respects and only during the rigorous training conditions, he was diagnosed with Spontaneous Pneumothorax (Right). It additionally defeats the very object of the policy, which has resulted in a denial of dignity, livelihood and medical care of the petitioner with no state support.

9. Her submission is that the petitioner submitted multiple representations to various competent authorities and made attempts which can be summed up as follows:

- a. First representation dated 15.12.1967, to Adjutant General's Branch, requesting certified copy of the IMB proceedings and grant of disability pension/ex-gratia, as per prevailing rules;
- b. Representation dated 27.03.1989, reiterating his grievance which he endured for over two decades due to non-grant of financial benefits as per the policy;
- c. Submitted grievance through the CPGRAMS portal on 18.02.2016, bearing Registration No. PMOPG/E/2016/0053702.

10. The respondents replied to this grievance whereby, they disclaimed responsibility for the grant of disability pension or equivalent benefits, citing the non-availability of relevant documents due to the passage of time. The



petitioner was subjected to inter departmental correspondences without any effective resolution.

11. She assails the impugned order by stating that the respondents have failed to act for over nearly five decades and held exclusive custody of all the relevant service and medical records since the petitioner's invalidation

12. She further states that over the years, the petitioner's health worsened. He suffered two consecutive cardiac arrests necessitating the placement of cardiac stents, which also placed an immense financial burden upon him. As a last resort, the petitioner submitted a detailed representation dated 12.06.2025 to the Secretary, Ministry of Defence, once again seeking issuance of the IMB report, disability pension, and consequential benefits. This too, remains unaddressed. This failure of communication of the IMB findings to the petitioner has grossly violated principles of natural justice. The petitioner was never informed about the reasons which form the foundation for the rejection of benefits to him, which is procedurally arbitrary and constitutes hostile discrimination, especially in the situation where similarly situated cadets who were invalidated out under comparable circumstances have been granted such relief. As per her, the delay by the petitioner in approaching this Court is totally due to the respondents' prolonged inaction, nondisclosure of records, and the petitioner's continuing ill-health resulting from the service-related disability. In order to prioritise survival/livelihood over litigation and to meet his family obligations, the petitioner was constrained to seek alternative employment compatible with his worsening health, which severely limited his capacity to pursue legal remedies in a full-fledged manner. Hence, the delay is *bonafide*, unavoidable, and occasioned by circumstances beyond the petitioner's



control, and cannot be used to defeat his legitimate and continuing claim for disability-related benefits.

13. Aggrieved by the same, the petitioner had approached this Court *vide W.P.(C) 19430/2025*, however, this Court sought much detailed clarification and justification pertaining to the delay of more than 50 years along with liberty to reinstitute the same petition in view of *Union of India V. Tarsem Singh 2008 (8) SCC 648*, where the Supreme Court has held that in cases of pension, delay cannot be an impediment for grant of relief. Hence, the petitioner has approached this Court to seek urgent directions in this matter.

14. We are not in agreement with the submissions made by the learned counsel for the petitioner. There is no dispute that this is a second round of the litigation by the petitioner, the earlier W.P.(C) 19430/2025 was dismissed on 22.12.2025 by the Coordinate Bench of this Court, wherein, paragraphs no. 3 to 7, the following has been stated:-

“3. Dr. Vijendra Singh Mahndiyan, learned CGSC who appears for the Union of India, submits that this writ petition is vitiated by inordinate delay and laches, inasmuch as the petitioner was boarded out from service in 1967 and has preferred this writ petition in 2025.

4. We are conscious of the fact that, in Union of India v. Tarsem Singh¹, the Supreme Court has held that, in cases of pension, delay cannot be an impediment of grant of relief. However, in the present case, the delay is of more than half a century, in fact, almost of over 60 years. There is not a whisper of an explanation in the entire writ petition, for the said delay.

5. We have to be conscious of the fact that the respondents may also not be having, with them, at this distance of time, the relevant record, so as to contest the matter.

6. Nonetheless, for the present, we permit the petitioner to withdraw this writ petition and reinstitute the petition, if so advised, also explaining why it took almost 60 years for the



petitioner to approach this Court.

7. The petition is disposed of in the aforesaid terms.”

15. The present petition has been filed with the alleged explanation for the delay which we have noted in paragraph no.12 above. The stand taken by the petitioner does not convince us, being that for certain unforeseen compelling reasons, he could not approach the Court. The cause of action for the petitioner arose in the year 1967, except representations by the petitioner on 27.03.1989, followed by further attempt to seek redressal of his grievance on 18.02.2016 and also, the claim of the petitioner was rejected on 13.05.2019, it is clear that the petition is hit by delay and laches as held by this Court on 22.12.2025.

16. In other words, the explanation as sought to be given, cannot be accepted. Even otherwise, the impugned communication dated 13.05.2019 reads as under:-

REQUEST FOR GRANT OF DISABILITY PENSION

1. Please refer your e-mail addressed to the Dir of Indian Army Veterans dated 25 Apr 2016 and relevant correspondence thereafter.
2. Keeping in mind the peculiarity of the case, it was referred to IMA and NDA for obtaining comments and IMB proceedings, it held. Both have confirmed that the IMB proceedings are not held with the academies.
3. AG's branch and DGMS (Army) were also approached in order to obtain the IMB proceedings for processing the case further but the same is not held with them either. Other concerned stakeholders to include, HO Integrated Defence Staff and MH Kirkee were also approached for obtaining the documents but the same could not be provided by any of the concerned authorities.
4. Notwithstanding, the case was processed with AG/PS-4 (Imp-1) for consideration after obtaining views of DGMS (Army) so as to facilitate the grant of disability pension/ Ex gratia. AG/PS-4 (Imp-1) has informed that the documents available are insufficient to process the initial adjudication for grant of Disability Pension. Moreover, the case is more than 50 yrs old (1966) and is hence time barred as per MoD letter No 1(3)/2008/D (Pen/Policy) dated 17 May 2016 (copy attached for ready reference).
5. Apropr s above, it is regretfully informed that the case cannot be pursued any further and is being treated as closed.

17. The case of the respondents is that in the absence of the documents



the claim cannot be entertained. This is primarily for the reason that the claim of the petitioner can only be answered, if the documents of 1967, and prior thereto, are available. Surely, more than 50 years have lapsed from the date of cause of action, if any. It is too late in the day to expect that documents relatable to that period shall be available with the respondents.

18. We are of the view that no relief can be granted to the petitioner. The petition and pending application are dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 30, 2026

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