



124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12576-2025 (O&M)
Date of Decision : 28-08-2025

UNION OF INDIA AND OTHERS

.....Petitioner(s)

VERSUS

KAMLA DEVI AND ANOTHER

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Amit Arora, Senior Panel Counsel
For the petitioners-Union of India.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the challenge is to the order dated 13.10.2022, copy of which has been appended as Annexure P-1 wherein, directions were given to the petitioner-Union of India to grant service pension to respondent No.1 by considering her service as 15 complete years by condoning shortfall of qualifying service for service pension as per the Judgement in Original Application No.1238 of 2016 with MA No.923 of 2016 decided on 01.10.2019 titled "*Smt. Shama Kaur vs. Union of India and ors.*", which judgment has also been implemented but, when the said judgment was relied upon at a later point of time by the Hon'ble Delhi High Court, on an appeal preferred by the Union of India, an interim order has been granted and therefore, till the decision of the Hon'ble Supreme Court of India in SLP (C) No.27725-2024, is passed the operation of the impugned

order passed by the Tribunal granting the relief to the respondent No.1 may kindly be stayed.

2. We have heard the learned counsel for the petitioners and have gone through the records with his able assistance.

3. In the present case, the respondent No.1 was enrolled in Indian Army on 21.09.1961 and was discharged on 12.12.1984 after rendering 22 years 3 months and 9 days in service. He re-enrolled in Defence Security Corps (DSC) for second service on 14.06.1986 and retired on 31.01.2001 on attaining the age of superannuation after rendering 14 years 5 months and 16 days, falling short by 4 months and 13 days of the required 15 years of service.

4. The issue which has been raised is whether, the benefit of condonation of shortfall in qualifying service to the extent of 12 months so as to make the respondents eligible for the grant of second service pension can be granted in favour of an officer, who retired prior to the completion of 15 years of mandatory service which is a condition precedent. The prayer of the petitioners is that the respondents are claiming the benefit of second pension while working in the Defense Security Corps (DSC) wherein, they have not completed 15 years of service which is a condition precedent for grant of second service pension.

5. It may be noticed that the said issue came up for consideration before the Principal Bench of the Armed Force Tribunal in ***Shama Kaur's case (supra)***, wherein the benefit of condonation of the service period upto 12 months was allowed, which judgment has already been upheld by the Hon'ble Supreme Court of India and the benefit had been extended to Shama Kaur.

8. Though, at a later point of time, the same judgment has been relied upon by the Delhi High Court while deciding a bunch of writ petitions including Writ Petition (C) No.2986 of 2024 decided on 04.09.2024 titled ***Union of India and others vs. EX/NK Chinna Vedyappan***, wherein, the reliance was also placed on ***Shama Kaur's case (supra)***, and on an appeal preferred before the Hon'ble Supreme Court of India in SLP (C) No.27725-2024, titled ***Union of India and others vs. Ex. NK Chinna Vedyappan***, vide order dated 02.12.2024, the direction has been given not to implement the said filed by the petitioners can be undertaken.

9. Now question arises whether the present petition is also liable to be adjourned to await the said decision or, the adjudication of the writ petition filed by the petitioners can be undertaken.

10. It is relevant to mention here that as per the judgment of the Hon'ble Supreme Court of India in ***Union Territory of Ladakh and others vs. Jammu and Kashmir National Conference and another, 2023 SCC Online SC 1140***, the following observations have been made by the Hon'ble Supreme Court of India:

“35. We are seeing before us judgments and orders by High Courts not deciding cases on the ground that the leading judgment of this Court on this subject is either referred to a larger Bench or a review petition relating thereto is pending. We have also come across examples of High Courts refusing deference to judgments of this Court on the score that a later Coordinate Bench has doubted its correctness. In this regard, we lay down the position in law. We make it absolutely clear that the High Courts will proceed to decide matters on the basis of the law as it stands. It is not open, unless specifically

directed by this Court, to await an outcome of a reference or a review petition, as the case may be. It is also not open to a High Court to refuse to follow a judgment by stating that it has been doubted by a later Coordinate Bench. In any case, when faced with conflicting judgments by Benches of equal strength of this Court, it is the earlier one which is to be followed by the High Courts, as held by a 5-Judge Bench in National Insurance Company Limited vs Pranay Sethi, (2017) 16 SCC 6805. The High Courts, of course, will do so with careful regard to the facts and circumstances of the case before it.”

11. A bare perusal of the above would show that merely one matter is pending before the Hon’ble Supreme Court of India, for adjudication the law that has already been settled on the said issue on an earlier occasion cannot be ignored.

12. Further, the learned counsel for the petitioners has not been able to dispute the fact that in ***EX/NK Chinna Vedyappan’s case (supra)*** passed by the Delhi High Court, the benefit was granted even to the officers, who had more than one year condoned needed to get the benefits which is not the case in ***Shama Kaur’s case (supra)*** or even in the present petition. Hence, the issue before the Hon’ble Supreme Court of India is whether the condonation beyond one year can be granted or not, so as to grant the pension which issue does not arise in the present petition.

13. The learned counsel for the petitioner has conceded the fact that the issue raised in the present petition was decided in favour of the respondents on the basis of the judgment in ***Shama Kaur’s case (supra)***, wherein the similar relief has already been granted has already attained finality and the said judgment stands implemented. Once the issue in present

case is identical to one which has been upheld by the Hon'ble Supreme Court of India, which fact has gone un rebutted, merely waiting for the decision of the Hon'ble Supreme Court of India in SLP (C) No. 27725-2024, will not serve any purpose especially in view of the law laid down in ***Union Territory of Ladakh's case (supra)***. Once, the factual assertion that the claim of the respondents is covered by ***Shama Kaur's case (supra)***, is not disputed, no ground is made out for keeping the present petition in abeyance for adjudication.

14. Further, the Coordinate Bench of this Court while deciding CWP-8886-2025 decided on 24.04.2025 titled ***Union of India and others vs. Ex. Naik Kuldeep Singh***, after noticing the said fact, have decided the claim based upon ***Shama Kaur's case (supra)***, wherein also, the fact that the same was covered by ***Shama Kaur's case (supra)***, could not be rebutted.

15. Keeping in view the totality of the circumstances as well as the settled principle of law as noticed hereinbefore, as it has not been shown that the order passed by the Tribunal is perverse either to the facts on record or settled principle of law, no interference at the hands of this Court is needed.

16. No ground is made out for interference by this Court.

17. The present writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

28-08-2025
Sapna Goyal

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No