



CWP-8995-2019 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(220)

CWP-8995-2019 (O&M)

Date of Decision : August 25, 2025

Union of India and others

.. Petitioners

Versus

Central Administrative Tribunal, Chandigarh and others

.. Respondents

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

Present: Mr. Ashish Rawal, Advocate, for the petitioners.

Mr. Karnail Singh, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 03.08.2018 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as 'Tribunal') by which, the benefit of pension has been granted in favour of respondent No.2 after her husband, who was the employee of the Railway, died while being in service and that too in a railway accident.

2. Learned counsel for the petitioners submits that though, the husband of respondent No.2 was appointed as casual employee in the year 1978 and in the year 1983, he was granted the temporary status and while on

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duty in February, 1999, he died in a railway accident but before his death, he was not screened and therefore, grant of benefit of pension without screening could not have been allowed in favour of respondent No.2 and therefore, the said order dated 03.08.2018 (Annexure P-1) passed by the Tribunal may kindly be set aside.

3. Learned counsel for the respondent No.2 submits that husband of respondent No.2 was a casual labour working from the year 1978 onwards and had more than 21 years of service with the petitioners on the day when he died in a railway accident and that too while performing the duties but still, respondent No.2, late wife of late Sh. Ram Parteek has not been granted the benefit of family pension, which act on the part of the petitioners is incorrect and the impugned order passed by the Tribunal granting the said benefit is perfectly valid and legal and the same may kindly be upheld.

4. We have heard learned counsel for the parties and have gone through the record with their able assistance.

5. As per the respondents, Railway Establishment Manual, Volume-II is applicable for the grant of benefit of family pension. It should be noted that as per letter dated 26.10.1965 issued by Railway Board, a casual labourer is entitled for the grant of family pension under Family Pension Scheme, 1964 upon their absorption against a temporary post in regular establishment provided and they have put in six months as a casual labourer so as to get entitled for temporary status and one year on the subsequent temporary post.

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6. In the present case, the casual service of the husband of respondent No.2 started in the year 1978 and he was granted the temporary status in the year 1983. He worked in service for a period of 16 years after getting the temporary status hence, under the Family Pension Scheme of 1964, respondent No.2 was entitled for the grant of pensionary benefits.

7. The only arguments which have been raised by the learned counsel for the petitioners is that the husband of respondent No.2 was not screened before he unfortunately died while in service.

8. It may be noticed that there was a period of 16 years available with the petitioners to screen the husband of respondent No.2 after granting him the temporary status in the year 1983. The petitioners never screened the husband of respondent No.2 during the said period and nothing has come on record to show that there were no post available which could justify the act of the petitioners so as not to screen the employee.

9. Further, it may be noticed that the husband of respondent No.2 died while being on duty and that too in a railway accident. That being so, denying the benefit of pension to respondent No.2 is totally arbitrary and illegal and contrary to the Family Pension Scheme of 1964.

10. The reliance is being placed upon by the learned counsel for the petitioners in ***CWP No.3192 of 2019 titled as Ram Kali vs. Central Administrative Tribunal, Chandigarh Bench and others, decided on 23.12.2022.***

11. It may be noticed that the facts in the said case were that after being given the status of temporary employee, the requisite of 10 years of



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qualifying service was not there, which fact was taken into account to deny the benefit of family pension, whereas, in the present case, the temporary status was granted to the husband of respondent No.2 in the year 1983 for deciding the claim of claimant in the said case and he had rendered 16 years service thereafter, which is adequately more than the required 10 years of qualifying service hence, the judgment in ***Ram Kali's case (supra)*** is not applicable in the facts and circumstances of the present case.

12. Keeping in view the totality of the circumstances, once after getting the temporary status, the husband of the respondent No.2 rendered 16 years of service and merely that he was not screened by the petitioners during the said period will not take away the right of respondent No.1 to get the benefit of pension, which is concededly granted to a temporary employee after he/she has rendered 10 years of service.

13. Learned counsel for the petitioners has raised the ground of delay in filing for claim qua pension.

14. It may be noticed that as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.4100 of 2022 titled as Shri M.L. Patil (dead) through LRs vs. State of Goa and another, decided on 20.05.2022***, for the grant of pension, the ground of delay is not applicable as it is a continuous cause of action. The relevant paragraph 3 of the said judgment is as under:-

“3. Having heard Shri Rahul Gupta, learned counsel appearing on behalf of the appellant and Shri Ravindra Lokhande, learned counsel appearing on behalf of the respondent – State of Goa and considering the fact that even by



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the impugned judgment and order, the High Court has held that action of the State Government in requiring the original petitioners to retire at the age of 58 years or not permitting them to continue in their service upto the age of 60 years is illegal and null and void, we are of the view that the High Court has erred in observing that the appellant will not be entitled to any arrears of pension and the pension at the revised rates will become payable only from 1st January, 2020. As such, the High Court may be right and/or justified in denying any salary for the period of two extra years to the writ petitioners if they would have continued in service, on the ground of delay. However, as far as the pension is concerned, it is a continuous cause of action. There is no justification at all for denying the arrears of pension as if they would have been retired/superannuated at the age of 60 years. There is no justification at all by the High Court to deny the pension at the revised rates and payable only from 1 st January, 2020. Under the circumstances, the impugned judgment and order passed by the High Court is required to be modified to the aforesaid extent.”

15. Learned counsel for the petitioners has not been able to rebut the same and therefore, the benefit of pension cannot be denied to respondent No.1 on the ground of delay once the entitlement qua the same exists in respondent No.1.

16. Keeping in view the totality of the circumstances, as the order dated 03.08.2018 (Annexure P-1) passed by the Tribunal has not been shown to be perverse either to the Rules, regulations or the settled principle of law, no ground is made out for any interference by this Court in the present case.



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17. Accordingly, the writ petition is dismissed.

18. Before parting with the judgment, the petitioners are directed to consider the total service of the husband of respondent No.2 starting from the year 1978 till his death so as to calculate the entitlement admissible to the beneficiary.

19. The family pension be paid to the wife of respondent No.2 from the date of death of employee till she unfortunately died on 16.09.2023 and thereafter, as an unmarried daughter is also entitled for the grant of family pension, the same be released to the unmarried daughter.

20. Let the order be complied with within a period of eight weeks from the date of receipt of copy of this order.

21. Civil miscellaneous application pending if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

August 25, 2025
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No