

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No: WP(C) No. 3122/2025

Reserved on: 07.07.2026
Pronounced on: 17.07.2026
Uploaded on: 17.07.2026

Whether the operative part or full
Judgment is pronounced : **Full**

Neelam Devi, age 35 years
W/O Late Surinder Kumar
D/O Bachan Lal,
R/O Ghagwal, Tehsil Ghagwal,
District Samba.

.....Petitioner(s).....

Through: Mr. Jagpaul Singh, Advocate

v/s

1. Union of India through its Secretary,
Ministry of Home Affairs,
New Delhi.
2. Director General of Indo-Tibetan
Border Police (ITBP), Headquarters
Block-IV, CGO Complex, Lodhi
Road, New Delhi-110 003.
3. Deputy Inspector General, Shimla,
Indo Tibetan Border Police
(ITBP).P.O. Taradevi,
Shimal H.P.-171 010.

.... Respondent(s)....

Through: Mr. Vishal Sharma, DSG((Sr. Adv.) with Mr.
Karan Sharma, CGSC

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

JUDGMENT

1. The petitioner, claiming herself to be the legally wedded wife of late
Constable (GD) Surinder Kumar of the Indo-Tibetan Border Police

(ITBP), has filed the present writ petition seeking the following reliefs :-

- a. Mandamus commanding the respondents to release all the service benefits in favour of the petitioner, accruing to her on account of death of her husband who died in harness, as respondents have miserably failed to release the same in favour of the petitioner.
- b. Mandamus commanding the respondents to appoint her on compassionate grounds in respondent department, as she is fully covered by the compassionate appointment policy of the government.
- c. Any other order or direction which this Hon'ble Court deems fit and proper may kindly be issued in favour of the petitioner and against the respondents."

2. The case of the petitioner is that her marriage with late Surinder Kumar was solemnized on 08.03.2019. Unfortunately, he died in harness on 26.05.2019 after allegedly committing suicide by consuming a poisonous substance. It is contended by the petitioner that, following the death of her husband, she was blamed by his family members for having abetted the commission of his suicide. Consequently, FIR No. 0170 dated 20.09.2020 came to be registered against her under Section 306 of the IPC in Police Station, Rajbagh, Kathua. Upon completion of the investigation, a challan was presented before the Court of the learned Principal Sessions Judge, Kathua. It is further averred that, vide judgment dated 26.04.2022, the learned Principal Sessions Judge, Kathua discharged the petitioner, holding that the prosecution had miserably failed to make out even a prima facie case of abetment of suicide against her. It is further contended that the prosecution did not assail the said judgment. However, the petitioner's mother-in-

law preferred revision petition being Crl. R No. 21/2022, titled *Kunti Devi v. Neelam Devi and another*, before this Court, challenging the said judgment. The revision petition came to be dismissed vide judgment dated 18.04.2024.

3. It is submitted that, immediately after the demise of her husband, the petitioner applied to the respondents for the release of family pension and other retiral benefits. She also sought appointment on compassionate grounds. However, the respondents failed to process her claim on the ground that criminal proceedings arising out of the FIR registered under Section 306 IPC were pending against her. It is contended that the petitioner stands discharged of all the allegations alleged against her and she apprised the respondents by filing a representation that she stood exonerated by the Court of law and requested them to settle the service benefits of her deceased husband and to appoint her on compassionate grounds. The petitioner also contends that she filed a suit before the Court of the learned JMFC, Hiranagar, seeking a declaration that she is the legal heir of the deceased Surinder Kumar. The said suit came to be decreed in her favour vide judgment dated 01.09.2022, whereby she was declared to be the legal heir of the deceased-Surinder Kumar. It was further held that she is entitled to inherit his property and all claims in accordance with her share under law.
4. The respondents, while resisting the writ petition, have pleaded in their objections that the petitioner's name did not find mention in the service records of the deceased employee. According to the

respondents, the petitioner was repeatedly requested to furnish a valid marriage certificate, a succession certificate, and the final decision in revision petition being Crl.R No. 21/2022. However, she failed to furnish the requisite documents. Therefore, the respondents contend that they cannot be held responsible for the non-consideration of her case, as the same was occasioned by the petitioner's failure to provide the requisite documents. It has further been pleaded that in view of Rule 54(11-C) the CCS (Pension) Rules, 1972, the claim for family pension could not be processed during the pendency of the criminal proceedings.

5. Heard learned counsel for the parties and perused the record.
6. The petitioner seeks twofold relief: first, a direction to the respondents to release all service and retiral benefits payable to her following the death of her husband, who died in harness; and second, a direction to the respondents for her appointment on compassionate grounds, asserting her eligibility under the relevant Government policy.
7. It would be apt to reproduce Rule 54(11-C) of the CCS (Pension) Rules as under:-

“11-C (a) If a person, who in the event of death of a Government servant while in service, is eligible to receive family pension under this rule, is charged with the offence of murdering the Government servant or for abetting in the commission of such an offence, the claim of such a person, including other eligible member or members of the family to receive the family pension, shall remain suspended till the conclusion of the criminal proceedings instituted against him.

(b) If on the conclusion of the criminal proceedings referred to in clause (a), the person concerned –

(i) is convicted for the murder or abetting in the murder of the Government servant, such a person shall be debarred from receiving the family pension which shall be payable to other eligible member of the family, from the date of death of the Government servant,

(ii) is acquitted of the charge of murder or abetting in the murder of the Government servant, the family pension shall be payable to such a person from the date of death of the Government servant.

8. The aforesaid rules provides that where a person otherwise entitled to family pension is charged with the offence of murdering the Government servant or abetting such offence, payment of family pension shall remain suspended till the conclusion of the criminal proceedings. The Rule itself, however, further provides that where such person is acquitted, family pension shall become payable from the date of death of the Government servant. The embargo contemplated under Rule 54(11-C) of CCS Pension Rules, therefore, is not permanent but only temporary and continues only till the criminal proceedings attain finality. In the present case, it is not disputed before this Court that the petitioner was discharged by the learned Principal Sessions Judge, Kathua vide judgment dated 26.04.2022 and that the said acquittal has been affirmed by the coordinate Bench of Court vide judgment dated 18.04.2024. Consequently, the statutory embargo contained in Rule 54(11-C) ceased to operate from the date the acquittal attained finality.

9. The respondents, in their response, have submitted that the petitioner was requested to furnish a valid marriage certificate, a succession certificate duly issued by the competent court of law, and a copy of the final decision rendered in revision petition being Crl. R No. 21/2022. However, according to the respondents, the petitioner has failed to furnish the said documents.

10. It appears from the record that the petitioner has placed on record a copy of the death certificate, the marriage card, the judgment dated 26.04.2022 passed by the learned Principal Sessions Judge, Kathua in Case No. 59/2021, titled *UT of J&K through Police Station, Rajbagh v. Neelam Devi*, the judgment dated 18.04.2024 passed in Crl.R No. 21/2022, whereby the revision petition preferred by the petitioner's mother-in-law was dismissed by a co-ordinate Bench of this Court and the judgment and decree dated 01.09.2022 passed by the Court of learned Munsiff/JMIC, Hiranagar, whereby the petitioner was declared to be the legal heir of deceased Surinder Kumar, son of Bishan Dass, resident of Chann Ranga, Tehsil Hiranagar and was also held entitled to inherit his estate and other lawful claims in accordance with her share under law.

11. Although the respondents have insisted upon the production of a marriage certificate, the record reveals that the petitioner was prosecuted for the alleged commission of an offence under Section 306 IPC on the accusation that she had abetted the suicide of her husband, Surinder Kumar. However, she was discharged by the learned Principal Sessions Judge, Kathua, vide judgment dated 26.04.2022, and the said order of discharge was upheld by a Coordinate Bench of this Court vide judgment dated 18.04.2024. Moreover, the petitioner has been declared to be the legal heir of the deceased government servant by a competent civil court. In these circumstances, the respondents cannot insist upon the production of a marriage certificate as a precondition for considering her claim.

12. Once a competent civil court has declared the petitioner to be the legal heir of the deceased government servant and the said declaration continues to hold the field, the respondents are bound to accord due weight and effect to the same. In the absence of any material to show that the aforesaid judgment of discharge, has been stayed, set aside, or otherwise rendered inoperative by any competent court, and in the light of the judgment of the civil court, the respondents cannot ignore their legal effect or insist upon production of a marriage certificate as a condition precedent for processing the claim of the petitioner. Consequently, the claim of the petitioner for service and retiral benefits, as well as her claim for appointment on compassionate grounds, deserves to be considered on its own merits in accordance with the applicable rules and policy, without insisting upon the production of a marriage certificate.

13. Since the respondents have admittedly not yet considered the petitioner's claim for release of the service and retiral benefits accruing on account of the death of her husband, who died in harness, as well as her claim for appointment on compassionate grounds, this Court deems it appropriate to dispose of the present writ petition in the following terms :-

- (a)** The respondents are directed to consider the petitioner's claim for release of all admissible service and retiral benefits, including family pension and other consequential benefits, strictly in accordance with the applicable rules.

- (b) The respondents shall also consider the petitioner's claim for appointment on compassionate grounds in accordance with the policy governing the field, taking into consideration the decree issued by the civil court and without insisting upon the production of a marriage certificate, in view of the observations made hereinabove.
- (c) The aforesaid exercise shall be completed and appropriate orders shall be passed by the competent authority within a period of six weeks from the date of receipt of a copy of this judgment. Needless to observe, if any other document, not inconsistent with the observations made hereinabove and otherwise permissible under the applicable rules, is required for processing the petitioner's claims, the petitioner shall furnish the same and extend full cooperation to the respondents. The decision so taken shall be communicated to the petitioner forthwith.

14. The writ petition stands disposed of in the above terms along with all connected applications.

(Rajnish Oswal)
Judge

Jammu
17.07.2026
Madan Verma-Secy

Whether order is speaking? **Yes.**
Whether order is reportable? **No.**