



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18668-2025

KASHMIR KAUR

...PETITIONERS

VERSUS

STATE OF PUNJAB AND ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. AK Walia, Advocate for the petitioner
Mr. NPS Hira, DAG Punjab.

1.	The date when the judgment is reserved	27.07.2026
2.	The date when the judgment is pronounced	18.08.2026
3.	The date when the judgment is uploaded	20.08.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

SANDEEP MOUDGIL, J

Prayer

1. The present writ petition under Articles 226/227 of the Constitution of India has been filed seeking quashing of the order dated 20.09.2019 and communication dated 31.12.2024 whereby the claim for regularization of the services of the petitioner’s deceased husband and the consequential claim for family pension and other retiral benefits were rejected. The petitioner also seeks a declaration that Late Shingara Singh was entitled to regularization

during his lifetime and, consequently, that she is entitled to family pension and other consequential benefits, besides consideration of her daughter's claim for compassionate appointment.

The Conspectus Of Facts

2. The brief facts of this case are that Late Shingara Singh was appointed as a Warder on ad hoc basis vide appointment order dated 07.11.1989 against a sanctioned post and joined service on 02.12.1989. He continued to serve in the Jail Department for about twenty-seven years and was transferred from Central Jail, Patiala to Central Jail, Faridkot on 27.10.2016. Shortly thereafter, he fell seriously ill, remained hospitalized from 28.10.2016 to 11.11.2016 and expired on 11.11.2016.

3. The case of the petitioner is that despite the issuance of the Government instructions dated 07.05.1993 providing for regularization of ad hoc Class-III employees and despite several similarly situated Warders, including those junior to Late Shingara Singh, having been regularized, his services were never regularized for no fault attributable to him. After his demise, the petitioner sought family pension, terminal benefits and compassionate appointment for her daughter. However, the respondents rejected the claim for regularization vide order dated 20.09.2019 and thereafter, by communication dated 31.12.2024, declined the consequential claim for family pension and other retiral benefits primarily on the ground that the services of the deceased employee could not be regularized after his death.

4. Aggrieved thereby, the petitioner has filed the present writ petition.

Contentions**On behalf of Petitioners**

5. Learned counsel for the petitioner contends that Late Shingara Singh was appointed against a sanctioned post and rendered nearly twenty-seven years of uninterrupted service as a Warder. It is argued that under the Government instructions dated 07.05.1993, similarly situated and even junior ad hoc Warders were regularized from the date of their initial appointment, whereas the case of the petitioner's husband was arbitrarily ignored despite being placed before the Departmental Committee. It is further submitted that the right to regularization had accrued during his lifetime and, therefore, the respondents could not defeat the consequential claim for family pension and other retiral benefits merely on the ground that he had died before issuance of the formal regularization order.

On behalf of Respondents

6. Per contra, learned State counsel submits that Late Shingara Singh remained an ad hoc employee throughout his service and no order regularizing his services was ever passed during his lifetime. It is contended that his service record was far from satisfactory, as he had remained unauthorizedly absent on several occasions, suffered punishments, and his Annual Confidential Reports were mostly below average or merely average, rendering him ineligible for regularization. It is further argued that regularization cannot be granted posthumously and, in the absence of regularization, the petitioner has no enforceable right to claim family pension or other retiral benefits admissible to regular employees. Accordingly, the impugned orders are stated

to be legal and justified and the writ petition deserves dismissal.

7. Arguments were heard and the judgement was kept reserved on 27.07.2026.

Issue for Determination

Whether an accrued right to regularization, which crystallized during the lifetime of an employee, can be defeated merely because the employer failed to pass a formal order before his demise?

Analysis

8. The controversy in the present case is not whether the services of Late Shingara Singh could be regularized after his demise. The real question is whether the deceased had acquired an enforceable right to regularization during his lifetime which the respondents failed to recognize and whether such accrued right could thereafter be defeated merely because no formal order had been passed before his death. In the considered opinion of this Court, the answer must be in the negative.

9. It is an admitted position on record that Late Shingara Singh was appointed as a Warder on 07.11.1989 through a duly constituted Departmental Selection Committee against a sanctioned post. He continued to discharge the duties of the said post till his demise on 11.11.2016, rendering nearly twenty-seven years of service. It is equally undisputed that the Government had issued instructions dated 07.05.1993 providing for regularization of ad hoc Class-III employees and that, pursuant thereto, the services of Warders appointed along with the deceased and even those junior to him were regularized between the years 1992 and 2001.

10. The respondents have not disputed the aforesaid factual position. Their principal defence rests upon the plea that Late Shingara Singh did not appear before the Departmental Committee constituted in the year 2003 and was, therefore, not regularized. This defence, however, cannot withstand judicial scrutiny. Except for a bald assertion in the written statement, no contemporaneous record has been produced to establish that any notice was issued to the deceased, that he deliberately abstained from the proceedings, or that the Committee ever rejected his candidature. Neither the proceedings of the Committee nor the attendance record has been placed on record. A plea unsupported by any official record cannot be accepted to deprive an employee of valuable service rights accrued over decades.

11. What further demolishes the respondents' stand is their own order dated 20.09.2019. The said order itself proceeds on the basis that the cases under consideration pertained to Warders appointed through the Departmental Selection Committee and notices the regularization granted to employees belonging to the same category. Thus, while acknowledging that the deceased belonged to the same class of employees, the respondents have failed to disclose any rational basis for excluding him alone from the benefit of regularization. Such inconsistent stands cannot receive judicial approval.

12. The guarantee of equality embodied in Article 14 of the Constitution prohibits arbitrary discrimination amongst similarly situated employees. Once employees appointed through the same selection process, against sanctioned posts and discharging identical duties were extended the benefit of regularization, denial of the same benefit to one employee without any legally

sustainable distinction becomes manifestly arbitrary. The respondents have failed to demonstrate any objective criteria on the basis of which the deceased stood on a different footing.

13. This Court in CWP-9455-2014 titled as ***“Hardev Singh v. State of Punjab”***, the Court emphasized that the State cannot continue to extract service from employees for decades and thereafter deny regularization on technical grounds. These principles squarely apply to the facts of the present case, where the deceased continuously served the department for almost twenty-seven years against a sanctioned post.

14. Equally significant is the fact that no order rejecting the claim of the deceased for regularization was ever passed during his lifetime. Had the respondents genuinely considered him unsuitable, nothing prevented them from taking a reasoned decision while he was still in service. Instead, they allowed the matter to remain undecided for years and, after his demise, rejected the claim by taking shelter behind the fact that he had already died. Such an approach permits the employer to derive benefit from its own inaction and cannot be countenanced in law.

15. The Supreme Court in ***“Prem Ram v. Managing Director, Uttarakhand Pey Jal & Nirman Nigam, (2015) 4 SCC 32***, held that where an employee had been denied regularization while juniors were regularized, the Court was justified in directing retrospective regularization notwithstanding the fact that the employee had already superannuated, together with all consequential retiral benefits. The underlying principle is that an accrued

service right cannot be defeated merely because the employer delayed taking the requisite decision.

15. The same principle has been carried forward by this Court in CWP-200-2016 titled as “*Ram Kumar v. State of Haryana*” decided on 19.09.2025, wherein it has been categorically held that where the right to regularization had crystallized during the lifetime of the employee, such right survives to his legal heirs and cannot be defeated by procedural technicalities. The Court observed that fairness, equality and the obligation of the State as a model employer require recognition of such vested rights and extension of consequential benefits to the legal representatives.

16. Applying the aforesaid principles, this Court is satisfied that the right of Late Shingara Singh to be considered and treated at par with similarly situated Warders had accrued during his lifetime. The respondents, having failed to discharge their statutory and constitutional obligation at the appropriate stage, cannot now contend that the right itself stood extinguished upon his death. The impugned orders, therefore, suffer from manifest arbitrariness, are violative of Articles 14 and 16 of the Constitution and cannot be sustained.

Conclusion

17. Accordingly, the impugned order dated 20.09.2019 and the consequential communication dated 31.12.2024 deserve to be quashed. The respondents are directed to grant regularization to Late Shingara Singh from the deemed date his similarly situated co-employees were regularized and to calculate and release all consequential benefits, including family pension and

other retiral dues along with interest at 6% per annum from the date it became due till it's realisation to the petitioner i.e. within a period of 8 weeks from the date of receipt of certified copy of this order.

- 18. Accordingly, the writ petition stands allowed.
- 19. Pending application(s), if any shall be disposed off, accordingly.

18.08.2026
NainaRajput

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No