

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

Date of decision: 13.02.2017

CM No.848-C of 2017 in/and
RSA No.390 of 2017 (O&M)

State of Haryana & others

...Appellants

Vs.

Meena Devi

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. J.S.Bedi, Additional Advocate General, Punjab,
for the applicant/appellants.

RAJIV NARAIN RAINA, J. (ORAL)

This appeal has been preferred after a delay of 1055 days by the State of Haryana presented through the District Collector, Rewari. There is no satisfactory explanation for the delay in filing the appeal worthy of acceptance as sufficient cause is not shown. The learned counsel appearing for the State has moved an application for stay of the execution proceedings in which State property has been attached to satisfy the decree of the Courts below granting family pension to the widow of the deceased-Government servant.

In view of the judgment in Office of the Chief Post Master General and others Vs. Living Media India Ltd. and another, 2012 (3) SCC 563, the appeal is dismissed on the ground of limitation expiring for the appeal. Accordingly, the application under Section 5 of the Limitation Act, 1963 is dismissed.

Mr. Bedi has endeavoured to argue the appeal on merits, even though he is unable to overcome the bar of limitation that the decree is for family pension and that there is an apparent lacuna in the decree where family pension has been granted without declaring the husband of the plaintiff deemed to be regularized while he was in service. Since only then, the right of family pension would flow.

Having heard Mr. Bedi at some length, I find some merit in the contention. The decree will be understood and treated as one based on deemed regularization w.e.f. 01.10.2003 to match the right to family pension declared by the Courts below in favour of the widow.

Accordingly, while dismissing the appeal, the decree is modified to cure an accidental slip to make the decree free of doubt and executable to bring in family pension.

13.02.2017
hemlata/Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*