



2024:DHC:7608-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13695/2024**

**INDIAN COUNCIL OF AGRICULTURAL RESEARCH AND
ANR**Petitioners

Through: Mr. T. Mahipal, Adv.

versus

SUSHILA AND ANRRespondents

Through: Mr. U Srivastava, Adv. for R-1
Mr. Syed Abdul Haseeb, CGSC for R-2/UOI

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT(ORAL)

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30.09.2024

C. HARI SHANKAR, J

CM APPL. 57347/2024 (Exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 13695/2024 & CM APPL. 57346/2024

3. This petition under Article 226 of the Constitution of India is directed against the judgment dated 5 September 2023 passed by the Central Administrative Tribunal, Principal Bench¹ in OA 1710/2020².

¹ "the Tribunal", hereinafter

² **Sushila v ICAR**



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4. The respondent, who was the applicant before the Tribunal, is a widow of one Komal Singh, who was employed with Petitioner 2 Indian Grassland and Fodder Research Institute, Jhansi, a subordinate office of the Indian Council of Agricultural Research³, the petitioner herein. She applied for release of her retirement dues, including her family pension. As the petitioners were not releasing the said dues, Respondent 1 approached the Tribunal by way of OA 1710/2020.

5. The Tribunal has allowed the OA, following the judgment of a Division Bench of this Court in *UOI v Kuntesh*⁴.

6. Mr. U Srivastava, learned Counsel for Respondent 1, submits that the decision in *Kuntesh* was carried to the Supreme Court by way of SLP (C) No 29280/2018, which was also dismissed on 4 May 2022.

7. Mr. T. Mahipal, learned Counsel who appears for ICAR, is unable to distinguish the judgment of the Division Bench of this Court in *Kuntesh* from the facts of the present case. His only contention is that certain relevant provisions of the Casual Labourers (Grant of Temporary Status and Regularization) Scheme dated 10 September 1993 have not been appreciated in the decision by the Division Bench while rendering the decision in *Kuntesh*.

8. We have perused the facts of the present case *vis-à-vis* the facts which applied in *Kuntesh*. In both the cases, the applicant before the

³ "ICAR" hereinafter
⁴ 2019 SCC OnLine Del 10254



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Tribunal was the widow of a former employee of the petitioner, who had not been regularized prior to his death. In both the cases, the widow sought the benefit of family pension.

9. In *Kuntesh*, the reliance was placed by the respondent Kuntesh on an earlier decision of this Court in *Sharda Devi v UOI*⁵.

10. *Sharda Devi*, in turn, followed a decision of the Supreme Court in *Yashwant Hari Katakhar v UOI*⁶.

11. In *Kuntesh*, the Division Bench of this Court, taking stock of these decisions, held as under:

“13. It is not in dispute that prior to the demise of Mr. Ram Kishan, he had served on casual basis since the year 1988 for a period of around 24 years and was conferred temporary status on 01.12.1993. The Tribunal in our view has rightly relied upon the earlier decision passed by the Allahabad Bench of the Tribunal and also the decision of the Delhi High Court in the case of *Sharda Devi*, which in turn has placed reliance on the Supreme Court verdict in *Yashwant Hari Katakhar*, the relevant portion of which, reads as under:

“3. Dr Anand Prakash, learned Senior Advocate appearing for the Union of India, has contended that on 7-3-1980 when the appellant was prematurely retired he had put in 18 ½ years of quasi-permanent service. According to him, to earn pension it was necessary to have a minimum of 10 years of permanent service. It is contended that since the total service of the appellant was in quasi-permanent capacity he was not entitled to the pensionary benefit. *There is nothing on the record to show as to why the appellant was not made permanent even when he had served the Government for 18 ½ years. It would be travesty of justice if the appellant is denied the pensionary benefits simply on the ground that he was not a permanent employee of the Government. The appellant having served the Government for almost two decades it would be unfair*

⁵ WP (C) 3018/2012 decided on 25 April 2013

⁶ (1996) 7 SCC 113



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to treat him as temporary/quasi-permanent. Keeping in view the facts and circumstances of this case we hold that the appellant shall be deemed to have become permanent after he served the Government for such a long period. The services of the appellant shall be treated to be in permanent capacity and he shall be entitled to the pensionary benefits. We allow the appeal, set aside the judgment of the Tribunal and direct the respondents to treat the appellant as having been retired from service on 7-3-1980 after serving the Government for 18 ½ years (more than 10 years of permanent service) and as such his case for grant of pension be finalised within six months from the receipt of this order. The appellant shall be entitled to all the arrears of pension from the date of retirement. No costs.

14. We see no reason why the respondent should not get benefit of the same view as taken by the Supreme Court, the Delhi High Court and the Allahabad Bench of the Tribunal in the afore-cited cases. In view of the foregoing discussion, we find no infirmity in the Tribunal's order and no merit in this writ petition. The writ petition is accordingly dismissed.”

12. Thus, the decision to grant family pension in such cases has unanimously been taken by various judicial fora including, various Benches of the Tribunal and this Court in ***Kuntesh*** and ***Sharda Devi*** and the Supreme Court in ***Yashwant Hari Katakhar***.

13. We are further informed that the decisions in ***Kuntesh*** and other connected cases were carried to the Supreme Court and the SLP also stands dismissed on 4 May 2022.

14. As the case is fully covered by the decision in ***Kuntesh***, the impugned judgment of the Tribunal does not suffer from any such error as would merit interference by this Court in exercise of jurisdiction vested in it by Article 226 of the Constitution of India.



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15. This writ petition is accordingly dismissed.

16. We would have been inclined to award costs in this case as a widow has unnecessarily been dragged to court. Nonetheless, keeping in mind the reasonable attitude adopted by learned Counsel for the petitioners, we refrain from doing so.

C.HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

SEPTEMBER 30, 2024

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Click here to check corrigendum, if any