

127

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-13135-2025 (O&M)

Date of Decision: 22nd of May, 2025

UNION OF INDIA AND OTHERS

.....*Petitioner(s)*

V/s.

EX. NK SURESH KUMAR NO. 2880902N AND ANOTHER

.....*Respondent(s)*

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present Mr.Amit Arora, Senior Panel Counsel,
 for the petitioners-UI.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The present Writ Petition assails order dated 01.02.2023 passed by the Armed Forces Tribunal, Regional Bench, Chandigarh at Chandimandir (for short “the Tribunal”), whereby the Tribunal relying upon the judgment passed by the larger Bench dated 01.10.2019 passed in OA No.1238 of 2016 titled as “**Shama Kaur** Vs. **Union of India and others**” had allowed OA-1564-2021 filed by the respondent No.1.

2. It would be apposite to quote the relevant extract of judgment passed by the larger Bench of the AFT in OA No.1238 of 2016 titled as “**Shama Kaur** Vs. **Union of India and others**” which is as under :-

"(i) In reference to Question No. (a), the issue of condonation of shortfall up to one year (twelve months) in qualifying service for grant of pension to members of the Defence Security Corps who have 14 years or more service stands fully settled as per law declared by Constitutional Courts and interpretation rendered by this Tribunal, amongst others in

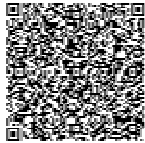


Chattar Pal by the Hon'ble Supreme Court wherein the Respondents themselves have accepted the applicability of condonation up to one year for personnel of Defence Security Corps, by the Hon'ble High Courts of Delhi and Punjab & Haryana in Madan Singh and Mani Ram respectively and also by this tribunal in Bhani Devi and Mohanan. T (supra). The general applicability of condonation of shortfall upto one year by judicial intervention has also been settled by the Hon'ble Supreme Court in Surender Singh Parmar (supra). Therefore, condonation of shortfall in qualifying service upto 'one year' for grant of pension shall also be available to the personnel of the Defence Security Corps (DSC).

(ii) Clubbing point of reference (b) and (c), it is held that widows of defence personnel have the right to approach this Tribunal to claim pension or family pension in consequence to the claim of pension qua deceased employees which falls within the definition of "service matter" under the Act and this right is provided by Section 2(2) of the Armed Forces Tribunal Act, 2007. Though there is no applicability of limitation in continuing wrongs and recurring causes of action, the arrears of pension, in the specific cases of condonation of shortfall, would however have to be restricted from 14.08.2001 as already directed in Paragraph 12 of Surender Singh Parmar (supra) which is binding on us. Further, the claims of dual family pension (in addition to the first family pension) would have to be restricted from 24.09.2012, as already provided by Ministry of Defence letter dated 17.01.2013 (supra).

(iii) In reference to Point (d), it is held that the law being fully settled, including by Constitutional Courts, there is no scope or occasion to doubt the correctness of the earlier decision of this Tribunal in Bhani Devi's case. It thus lays down the correct legal proposition of law."

3. The aforesaid decision of the larger Bench of AFT has been upheld by Hon'ble the Supreme Court in **Union of India and Another** Vs.



Surender Singh Parmar ; (2015) 3 SCC 404, and directed to condone shortfall period of 315 days for the purpose of counting the total period of 15 years of service for grant of pension.

4. In the present case, admittedly, the short fall is of 256 days in qualifying service of the respondent No.1 which has been condoned by the AFT.

5. In view of the aforesaid, the challenge, in the present Writ Petition is found to be without merits as the law is well settled in the case of Surender Singh Parmar (Supra) that up to one year, relaxation and condonation can be given if the person is discharged with service less than 15 years.

6. In view of the above, no merit is found in the Writ Petition, accordingly the same is dismissed.

7. All pending applications in this case are disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[MEENAKSHI I. MEHTA]
JUDGE

May 22, 2025
Ess Kay

Whether speaking / reasoned	:	Yes	/	No
Whether Reportable	:	Yes	/	No