



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

221

CWP-7475-2020 (O&M)
Reserved on: 26.08.2025
Pronounced on: 09.09.2025

Narinder Kaur

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Jhanji, Sr. Advocate
with Mr. Abhishek Kumar Premi, Advocate
for the petitioner.

Mr. T.P.S. Walia, AAG, Punjab.

Mr. Vaibhav Sharma, Advocate
for respondents No.2 to 5.

HARPREET SINGH BRAR J. (Oral)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for setting aside the order dated 22.07.2024 (Annexure P-8) passed by respondent No.1 as Revisional Authority, order dated 21.11.2022 (Annexure P-6) passed by respondent No.3 as Appellate Authority and order dated 28.03.2018 (Annexure P-4) passed by respondent No.4 as Punishing Authority and to quash the Show Cause Notice Nos. 1264-65 dated 19.05.2017 (Annexure P-2).

2. The factual background of the case as pleaded is that the petitioner's husband was appointed as a Clerk in the Market Committee, Patiala, vide appointment letter dated 30.04.1991 (Annexure P-2),



subject to approval of the Punjab Mandi Board, and joined duties on 02.05.1991 (Annexure P-3). Respondent No. 3 sought creation of a post for him on 28.08.1991 (Annexure P-4), which was approved on 16.07.1992 (Annexure P-5), followed by issuance of a fresh appointment letter dated 18.09.1992 (Annexure P-6). An FIR was registered against him on 22.11.1992, leading to his suspension on 12.01.1993 (Annexure P-7). He later went missing and was declared deceased in an encounter, as per report of the Sessions Judge, Sangrur, and order of this Hon'ble Court dated 28.09.1999 (Annexure P-8), wherein compensation was awarded to the family. The petitioner was appointed on compassionate grounds as a Clerk in the Market Committee, Ghanaur, vide appointment letter dated 07.03.2002 (Annexure P-12). The Government of Punjab, vide memo dated 22.07.2013 (Annexure P-13), created a supernumerary post for the period 02.05.1991 to 13.03.1993, and salary for the said period was released to the petitioner on 10.10.2013. The petitioner sought family pension under Rule 6.17 of the Punjab Civil Services Rules Volume II. Her claim was rejected vide order dated 20.07.2016 (Annexure P-17) and reaffirmed vide letter dated 29.08.2017 (Annexure P-19) on the ground that her husband had not completed one year of regular service. A previous writ petition (CWP No. 2893 of 2018) was withdrawn with liberty to file afresh seeking treatment of the deceased husband as a regular employee for pensionary benefits.



3. Learned Senior counsel for the petitioner, *inter alia*, contends that Rule 6.17 of Punjab Civil Services Rules (PCSR) Volume II explicitly states that the term "one year continuous service" includes both permanent and temporary service in a pensionable establishment. Since the deceased husband served from 02.05.1991 to 13.03.1993 (a period exceeding one year) and his salary for this period was duly released by the respondents, the denial of family pension is contrary to the rules. Further the creation of a supernumerary post vide government memo dated 22.07.2013 (Annexure P-13) regularizes the deceased's service for the entire period from 02.05.1991 to 13.03.1993. The fact that the petitioner herself was appointed on compassionate grounds, a benefit extended only when the deceased employee was in a regular post buttresses the claim that her husband's service was considered regular by the respondents. Therefore, his service should be considered regular for all intents and purposes, including family pension.

4. *Per contra*, learned State counsel as well as learned counsel for respondents No.2 to 5 submits that the appointment letter dated 18.09.1992 (Annexure P-6) explicitly states that the petitioner's husband was appointed on a "temporary basis" and the appointment was made in anticipation of approval from the Government of Punjab. It clearly stipulated that if approval for the creation of the post was not received, he would not be given any pay. Further, Rule 6.17 of the Punjab Civil Services Rules (PCSR) applies only to a "regular employee." The petitioner has failed to establish that her husband was



ever a regular employee of a pensionable establishment. Rule 6.17 mandates one of two conditions for family pension eligibility in cases of death in service:

- a. Completion of one year of continuous service without a break.*
- b. Being medically examined and declared fit at the time of entry into service.*

The petitioner's husband fulfilled none of the aforesaid condition. Learned counsel for respondents No.2 to 5 states that the husband of the petitioner remained absent from duty continuously from 31.10.1992 (less than two months after his temporary appointment) and was subsequently, suspended on 12.01.1993. His service was neither continuous nor did it span one year. The term "one year continuous service" includes temporary service but specifically excludes "suspension period unless regularized by the competent authority." The suspension period was never regularized.

5. Learned counsel for respondents No.2 to 5 further states that the approval for creating a supernumerary post on 02.08.2013 was granted over 20 years after the employee's demise. This was a sympathetic gesture for the limited purpose of releasing salary for the exact number of days the deceased had actually worked (43 days) and thus, this retrospective creation of a post for a specific limited purpose cannot be interpreted as a regularization of his service or a fulfillment of the eligibility criteria for pension benefits. He further submits that the grant of family pension is governed strictly by statutory rules. It is not a



matter of right but a benefit contingent upon fulfilling specific eligibility criteria. The petitioner cannot use the Court's extraordinary jurisdiction to bypass the mandatory requirements of the Punjab Civil Services Rules (PCSR) which her husband did not meet.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. The husband of the petitioner was issued an appointment on temporary basis vide letter dated 18.09.1992 (Annexure P-6). After 43 days of appointment from 31.10.1992 the husband of the petitioner remained absent. Consequently after seeking explanation of absence, the petitioner's husband was suspended on 12.01.1993 during which he passed away.

8. The relevant provisions of the Punjab Civil Service Rules are reproduced below,

“FAMILY PENSION SCHEME

6.17. The provisions of this rule shall apply:

(a) to a regular employee of Punjab Government in a pensionable establishment on or after the 1st July, 1964 ; and

(b) to a Punjab Government employee who was in service on the 30th June, 1964 and came to be governed by the provisions of Family Pension Scheme, 1964, for Punjab Government employees.

(2) The Scheme will be administered as below:—

*..... (ii) **The term “one year continuous service”** used in clause (i) is inclusive of permanent and*



*temporary service in a pensionable establishment and any period of leave including extraordinary leave but **does not include Boy Service and suspension period unless that is regularised by the competent authority**.....”*

(emphasis added)

9. The husband of the petitioner served only for a period of 43 days before suspension, neither was his suspension regularized nor any prayer had ever been made to regularize the suspension period of the petitioner’s husband.

10. A two judge bench of the Hon’ble Supreme Court in ***UP Roadways Retired Officials And Officers Association v. State of U.P. 2024 INSC 555***, speaking through Justice Prashant Kumar Mishra made the following observation,

*“35. The common thread in the above referred judgments of this Court is that pension is a right and not a bounty. It is a constitutional right for which an employee is entitled on his superannuation. However, **pension can be claimed only when it is permissible under the relevant rules or a scheme**. If an employee is covered under the Provident Fund Scheme and is not holding a pensionable post, he cannot claim pension, nor the writ court can issue mandamus directing the employer to provide pension to an employee who is not covered under the rules.”*

(emphasis added)

11. Further reliance may be placed on another Two Bench judgment of the Apex Court in ***Prabhu Narain v. State of U.P. 2004***



(13) SCC 662, which speaking through Justice Shivaraj V. Patil made the following observation,

*“9. The earlier judgment of this Court in the case of Raj Narain afore-mentioned relates only to regularisation of services. If the petitioners had any grievance regarding regularisation of their services and if their services were not regularised early or ignoring their claim services of any juniors were considered, it was open to them to seek appropriate relief based on the judgment of this Court claiming regularisation of their services from a particular date. That is not the claim made in the Writ Petition. No details or particulars are given as to who are those juniors whose services were regularised in preference to the services of the petitioners. **No doubt pension is not a bounty, it is a valuable right given to an employee, but, in the first place it must be shown that the employee is entitled to pension under a particular Rule or the Scheme, as the case may be.**” (emphasis added)*

12. The grant of family pension is not an automatic right but a benefit contingent upon the fulfillment of specific eligibility criteria prescribed in the rules governing it. The rules in this regard are clear and unambiguous as per Rule 6.17 of the Punjab Civil Services Rules (PCSR). Firstly, the Family Pension Scheme applies only to regular employees of a pensionable establishment. The petitioner's husband was not a regular employee, a fact unequivocally established by his appointment letter which explicitly states his appointment was on a temporary basis, contingent upon and subject to future approval. Secondly, the eligibility criteria expressly requires the employee to



complete one year of continuous service. The record portrays that the petitioner's husband served for only 43 days before being placed under suspension. Critically, the rules stipulate that any suspension period is excluded from the calculation of continuous service unless it is regularized by the competent authority. As the suspension was never regularized, this period cannot be counted.

13. The petitioner has failed to meet either of the fundamental prerequisites of Rule 6.17 of the Punjab Civil Service Rules which governs the family pension of the employees. Accordingly, in terms of the aforesaid Rules, the present petition is dismissed.

(HARPREET SINGH BRAR)
JUDGE

26.08.2025
yakub

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