

**CWP-18802-2025 1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(104)****CWP-18802-2025****Date of Decision : August 06, 2025****Union of India and another****.. Petitioners****Versus****Smt. Manjit Kaur and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Ms. Garima Kuthiala, Advocate, for
Mr. Chander Mohan Sharma, Sr. Standing Counsel,
for the petitioners.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 04.03.2025 (Annexure P-3) passed by the Central Administrative Tribunal, Chandigarh by which, the claim of respondent No.1 to get the family pension in respect of the service rendered by her late husband namely Saroop Lal has been allowed from the date the Saroop Lal unfortunately died while in service. While passing the said order, the orders passed by the petitioners dated 09.12.2006 (Annexure A-6) as well as 24.09.2019 (Annexure A-8) were quashed.

2. Learned counsel appearing on behalf of the petitioners argues that the decision reached upon by the Tribunal, allowing the claim of respondent No.1 for the grant of family pension was incorrect as the benefit



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of compassionate appointment had already been given to her after the death of her late husband namely Saroop Lal.

3. Further argument which has been raised by the learned counsel for the petitioners is that at the time when Saroop Lal died, he was not a regular employee of the Railways so as to grant the benefit of family pension to respondent No.1, which benefit has been granted by the Tribunal while passing the impugned order dated 04.03.2025 (Annexure P-3).

4. We have heard learned counsel for the petitioners and have gone through the record with her able assistance.

5. The first argument which has been raised by the learned counsel for the petitioners is that once respondent No.1 was given the benefit of compassionate appointment after the death of her husband, she did not have any right to claim the benefit of family pension after the death of her husband Saroop Lal.

6. On being asked to point out qua the aspect that when a widow has been granted the benefit of compassionate appointment after the death of her husband who died while being in service, is there any Rule governing the service which prohibits the grant of family pension to wife of deceased husband, learned counsel for the petitioners has not been able to point out any such Rules.

7. In the absence of any such existing Rule, the entitlement of respondent No. 1 qua the grant of the family pension is to be seen on the basis of the rules governing the service on the said aspect on the settled principle of law.

8. While granting the relief of family pension to respondent No.1,



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the Tribunal has placed reliance upon the judgment of this Court in ***Alka Sharma vs. Union of India and others, 2017 (2) SCT 739.***

9. Learned counsel for the petitioners was requested to point out the differentiating factor which could show this Court that as to why, the judgment in ***Alka Sharma's case (supra)*** is not applicable upon the facts and circumstances of the present case.

10. Learned counsel for the petitioners has not been able to point out any such differentiating factor between the case of respondent No.1 and Alka Sharma, who was granted the benefit of family pension on similar grounds by setting aside the same objection that the employee before his death was not regularized in service. The relevant paragraph of the judgment in ***Alka Sharma's case (supra)*** is as under:-

“10. The overall picture which thus emerges is that admittedly, the deceased employee had worked for in excess of the requisite one year of service, from 30.07.1992 till his death on 14.12.2006, and that he had also passed the requisite Medical examination on 5.08.1992. Consequently, on account of his death in harness, his widow would become entitled to grant of Family Pension. The same was however not granted, ostensibly as his services were 'not regularized'. But as can be rightly concluded by objectively considering the facts in the light of specific averments of the Petitioner, and evasive denial of the same by the Respondents, the employee himself was not at fault for such lack of regularization. He passed the requisite written examination in the year 2000, but was never called for interview in spite of the Respondents' own written communication dated 30.06.2000 for that purpose. He was not even intimated through his Controlling Authorities about the succeeding written examinations in the years 2002 and 2004. In fact, the Ld. Tribunal went on to hold that the employee



could not clear the Written Test scheduled in 2000, 2001 and 2002. This observation is ex facie in correct since he had actually cleared the Test in 2000, while there is nothing on record even from the side of the Respondents to suggest that any such Test was at all held in 2001. Regarding the following year 2002, the petitioner's allegation that her husband was never intimated for taking the Test is virtually un-rebutted in the pleadings. Further, no rule or instructions have been brought on record to show that "Interview" was a mandatory condition for regularization of services when the employee was performing his duties for 14 years to the entire satisfaction of his superiors. We, therefore, have no hesitation in coming to the conclusion that substantially, the responsibility of the 9 of 10 deceased employee's services having remained un-regularized during his life time, lies with the Respondents themselves.

11. For the above reasons, the impugned Order of the Tribunal is unsustainable and is accordingly set aside. The Writ Petition is therefore, allowed and the Respondents are directed to do the needful for grant of Family Pension and other Retiral benefits of the deceased employee by notionally treating his services as regularized. She shall however, be entitled to arrears of Pension only for a period of three years preceding the filing of her Original Application in the Ld. Tribunal i.e. May, 2012 onwards.

12. The needful be done by the Respondents/Authorities within four months from the date of communication of this Order.”

11. A bare perusal of the above reproduction would show that one year of service is a requisite under Family Pension Scheme for Railway servants 1964, which is para materia to Rule 54 of the Central Civil Services (Pension) Rules, 1972 which govern the respondent No.1 for the grant of family pension, which service had been completed by the late



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husband of the respondent No. 1.

12. Once, it is a conceded fact that husband of respondent No.1 had more than one year of service before he unfortunately died, respondent No.1 has rightly been held entitled for the family pension keeping in view the settled principle of law settled in ***Alka Sharma's case (supra)***.

13. The last argument which has been raised by the learned counsel for the petitioners to assail the impugned order passed by the Tribunal is that there has been a delay in raising the plea qua entitlement of family pension as the husband of the respondent No.1 had died in the year 1994 but she raised her claim qua the said aspect at a much later stage.

14. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.4100 of 2022 titled as Shri. M.L. Patil (Dead) through LRs v.s The State of Goa and another, decided on 20.05.2022***, the claim for the pension/family pension cannot be denied on the ground of delay as the same is a recurring cause of action. The relevant paragraphs 3 and 4 of the said judgment are as under:-

“3. Having heard Shri Rahul Gupta, learned counsel appearing on behalf of the appellant and Shri Ravindra Lokhande, learned counsel appearing on behalf of the respondent – State of Goa and considering the fact that even by the impugned judgment and order, the High Court has held that action of the State Government in requiring the original petitioners to retire at the age of 58 years or not permitting them to continue in their service upto the age of 60 years is illegal and null and void, we are of the view that the High Court has erred in observing that the appellant will not be entitled to any arrears of pension and the pension at the revised rates will become payable only from 1st January,



2020. As such, the High Court may be right and/or justified in denying any salary for the period of two extra years to the writ petitioners if they would have continued in service, on the ground of delay. However, as far as the pension is concerned, it is a continuous cause of action. There is no justification at all for denying the arrears of pension as if they would have been retired/superannuated at the age of 60 years. There is no justification at all by the High Court to deny the pension at the revised rates and payable only from 1 st January, 2020. Under the circumstances, the impugned judgment and order passed by the High Court is required to be modified to the aforesaid extent.

4. In view of the above and for the reasons stated above, the present Appeal Succeeds in Part. The impugned judgment and order passed by the High Court to the extent of denying any arrears of pension and holding that the appellant shall be entitled to the pension at the revised rates only from 1st January, 2020 is hereby quashed and set aside. It is held and ordered that the appellant – original writ petitioner shall be entitled to pension at the revised rates from the date he attains the age of 60 years. Now the arrears accordingly shall be paid to the appellant within a period of four weeks from today. Present Appeal is Partly Allowed to the aforesaid extent. In the facts of the case, there shall be no order as to costs.”

15. Keeping in view the above, the ground of delay raised by the petitioner to deny the benefit of family pension to respondent No.1 on the ground of delay is accordingly rejected.

16. It may be noticed on one hand, the petitioners in order to deny the claim of the respondent No. 1 qua grant of family pension have taken the ground that the services of the husband of respondent No.1 was not regularized but on the other hand, it is a conceded fact that respondent No.1

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was given compassionate appointment after death of her husband, which benefit is admissible to the kins of regular employee.

17. On being asked whether, the benefit of compassionate appointment can be granted to the relative of deceased employee who was working as a casual labour, learned counsel for the petitioners conceded that no such benefit can be granted. Hence, husband of respondent No.1, who at the time of death, was having a temporary status and was getting the benefit admissible to a regular employee, the direction given by the Tribunal to grant the benefit of pension to respondent No.1 cannot be treated as arbitrary or illegal or against the service rules governing the said issue.

18. As learned counsel for the petitioners has not been able to point out any perversity qua the fact and evidence on record in the impugned order passed by the Chandigarh Administrative Tribunal, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

19. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

August 06, 2025
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No