



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102)

CWP No. 20235 of 2024 (O&M)

Date of Decision : 18.08.2025

Union of India and another

...Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sunish Bindlish, Senior Standing Counsel with
Ms. Ridhi Bansal, Advocate for the petitioners.

Mr. Rishav Sharma, Advocate for respondent No. 2
(Joined through Video Conferencing)

Harsimran Singh Sethi J. (Oral)

CM-5460-CWP-2025

Present application has been filed for placing on record
Additional Affidavit of Sh. Gaurav Kumar Jain, Joint Commissioner, CGST
Commissionerate, Chandigarh.

Application is allowed and Additional Affidavit of Sh. Gaurav
Kumar Jain, Joint Commissioner, CGST Commissionerate, Chandigarh is
taken on record with all just exceptions.

CWP-20235-2024

1. In the present petition, the challenge is to the order dated
21.09.2023 (Annexure P-10) passed by the Central Administrative Tribunal,



Chandigarh Bench by which, respondent No. 2 has been held entitled for the benefit of family pension as well as other retiral benefits after the death of her husband, who had worked for a period of 17 years with the petitioner and had died while in service.

2. It may be noticed that the husband of respondent No. 2 was appointed in November, 1997 as a Frash in the Central Excise Department, Chandigarh. After rendering the service for a period of four years, the husband of respondent No. 2 along with the other casual workers approached the Tribunal by filing OA No. 800/CH/2001 that they should be treated as the direct employees of the Department and they be paid the minimum of the pay scale for the post. The said Original Application was disposed on 14.08.2002 (Annexure P-1) by passing an order that the casual workers will be considered for regularization of their services as and when the posts are filled up or additional posts are created to meet the requirement over the work of Frash as well as Sweepers.

3. Against the said judgment, a writ petition was filed by the petitioners before this Court being CWP no. 7983-CAT of 2003, which was dismissed on 23.05.2003 (Annexure P-2) after which, the petitioner approached Hon'ble Supreme Court of India and vide order dated 20.04.2010 (Annexure P-3), the Hon'ble Supreme Court of India affirmed the decision of the Central Administrative Tribunal with regard to the consideration of the claim of the employees for regularization of their services.



4. Thereafter, though the benefit of minimum of the pay scale was granted to the Frash and the Sweepers working but at no given point of time their claim for regularization of their services was considered.

5. Unfortunately, while working with the Department, the husband of respondent No. 2 died on 16.03.2014 after which, the respondent No. 2 raised the claim before the Tribunal for the grant of family pension as the same was not being granted on the ground that the husband of respondent No. 2 was a casual employee and ultimately, the Tribunal vide order dated 21.09.2023 (Annexure P-10) directed the petitioners to grant the family pension to respondent No. 2 by treating her husband as regular employee on the date of his death keeping in view the fact that he had 17 years of service to his credit, which order has been impugned by the petitioners in the present petition.

6. Learned counsel for the petitioner argues that the husband of respondent No. 2 was not a regular employee and the benefit of family pension can only be granted to the widow of the deceased regular employee and hence, keeping in view the provisions of law, especially Section 2 of the Central Civil Services (Pension) Rules, 1972, the said benefit cannot be granted.

7. We have heard learned counsel for the petitioner and have gone through the record with his able assistance.

8. The only argument which has been raised by the counsel for the petitioner is that keeping in view the fact that the husband of respondent No. 2 was not regular employee, the direction given by the Tribunal to grant the benefit of family pension is incorrect.



9. It may be noticed that the husband of respondent No. 2 was appointed in the year 1997 and in the year 2002, direction was given by the Competent Court of Law to consider the claim of the husband of respondent No. 2 along with other employees for regularization of their services. It is a conceded position that the said order dated 14.08.2002 (Annexure P-1) has already attained finality upto the Hon'ble Supreme Court of India but, no such consideration was ever given by the petitioner herein to the claim of husband of respondent No. 2 for regularization of his services for the next 13 years until he unfortunately died while in service.

10. Not only this, after the direction was given by the Tribunal, which was upheld by the Hon'ble Supreme Court of India in the year 2010, as per the judgment of the Constitution Bench in ***Secretary, State of Karnataka and others Vs. Uma Devi***, 2006 (4) SCC 1, an employee who has worked for a period of ten years, was entitled for regularization of his/her services. Even after the said direction, no such consideration took place.

11. The only reason given by the petitioner before this Court is that there was no post of Frash available for regularization of services of husband of respondent No. 2. It may be noticed that a person who has been allowed to work on casual basis for a period of 17 years, can it be said for such person that there did not exist the work required for a creation of the post or that the performance of the duties by the husband of respondent No. 2 was a stop gap arrangement.

12. As per the settled principle of law, settled by this Court in CWP No. 1048 of 2016 titled as ***Jai Bhagwan Vs. State of Haryana and others***, decided on 01.03.2019, where an employee is working on part time basis



continuously for a period of 20 years, it cannot be said that the work/nature of duties being performed by such employees is casual or is not required to be performed in order to run the establishment. The relevant paragraph of the judgment is as under :-

“I have heard counsel for the parties and have gone through the record with their able assistance.

Counsel for the petitioner contends that once the petitioner had rendered service on part time basis starting from 06.08.1992 till 27.02.2012, the same is liable to be counted as a qualifying service for the grant of pensionary benefits.

Counsel for the petitioner further contends that though the petitioner was working on part time basis, but as he worked for about 20 years, it cannot be said that he discharged the duties on part time basis. Further, as the petitioner was working as Peon in a school, it cannot be said that he was discharging the duties part time and the same has to be considered a regular employment for all intents and purposes.

On the other hand, counsel for the respondents states that once the appointment was made on part time basis, the same cannot be considered as a qualifying service in view of the provisions of Section 3.17 (A) of the CSR Vol-II, according to which, part time service cannot be treated as a qualifying service.

It is a matter of fact that the petitioner worked on part time basis continuously for 20 years. A person is engaged on part time only for a specific job and for specified period. It cannot be said that an employee, who is working continuously for 20 years as Peon in school, was a part time job. The said



service is to be treated as a long term employment for all intents and purposes.

A Full Bench of this Court in [Kesar Chand's](#) case (supra) has held that daily wage service, followed by regularization of the services, is to be counted as a qualifying service for the grant of pensionary benefits. Once, the daily wage service is to be counted as a qualifying service, it cannot be said that continuous appointment rendered by the petitioner for 20 years though as part time basis, is less than the daily wage service rendered by an employee. There is no justification given by the respondents to deny the said benefit, except the Rule 3.17 (A). The said Rule has already been considered in [Kesar Chand's](#) case (supra) and it has been held that the daily wage service followed by the regular service is good enough to be treated as qualifying service for computing the pensionary benefits. Therefore, the service which the petitioner has rendered for 20 years as a Peon from 06.08.1992 till 27.02.2012 cannot be ignored for computing the pensionary benefits of the petitioner.”

13. Further, the judgment in ***Jai Bhagwan(supra)*** was upheld in LPA No. 1892 of 2019 titled as ***State of Haryana and others Vs. Jai Bhagwan***, decided on 26.07.2024 and further upheld by the Hon’ble Supreme Court of India on 20.09.2024 in SLP(C) No. 21427-21435 of 2024.

14. Hence, once the duties being performed by the husband of respondent No. 2 were not casual in nature, it was the duty of the petitioner to create such post to give the benefit to employee who has worked for more than one and half decade rather than taking an objection that there did not exist any post for regularization of such employee so as to deny the widow



of such employee, the benefit of family pension. The State has to treat itself as a Welfare State so as to grant the benefit admissible to an employee under law.

15. Not only this, on being asked as to whether, the claim of respondent No. 2 is covered by the judgment in *Alka Sharma Vs. Union of India and others, 2017 Vol. II SCT 739* passed by the Division of this Court, learned counsel for the petitioner does not dispute the settled principle of law, wherein also, the benefit of family pension was allowed to widow of an employee, who was also not a regular employee. The only reason given to differentiate the claim of respondent No. 2 from *Alka Sharma's case (supra)* is that the same related to another Department and that in the said case, the delay in consideration of the case of regularization was attributable to the Department concerned.

16. In fact, the judgment in *Alka Sharma's case (supra)* is applicable in the present case as the husband of respondent No. 2 herein had 17 years of service to his credit. Further, despite a direction given by the Competent Court of Law as far back as in 2002 to consider the claim of husband of respondent No. 2 for regularization, the same was not considered for the next 13 years till the husband of respondent No. 2 unfortunately died. Hence, the facts in the present case are not distinguishable as compared to *Alka Sharma's case (supra)*.

17. Not only this, the another widow of an employee who had died, namely, Dalbir Kaur, had also approached the Court for the grant of the same relief, which was allowed in her favour by the Tribunal. The writ petition



being CWP No. 23105-CAT of 2014 was filed by the Union of India taking the same plea that the husband of Dalbir Kaur was not a regular employee so as to deny the relief claimed and after considering the said argument, keeping in view the fact that the husband of Dalbir Kaur had rendered 23 years of service, the Division Bench held that the services rendered by the husband of Dalbir Kaur cannot be treated as a casual so as to deny the benefit of family pension.

18. Learned counsel for the petitioner concedes the said factum that the judgment in case of Dalbir Kaur has already been implemented, wherein, she has already been granted the benefit of family pension despite the fact that on the date of death, the husband of Dalbir Kaur was also a casual worker.

19. Further, this fact has already been conceded by the petitioner while giving the information under RTI, which is clear from the order dated 02.07.2019 (Annexure P-7), wherein, in Clause-10, it has been conceded that the husband of Dalbir Kaur was also a casual employee having temporary status.

20. Keeping in view the totality of facts and circumstances of the present case, once, the benefit of family pension has been granted to Dalbir Kaur, whose husband had worked for a sufficiently long time after he unfortunately died while in service, declining the same benefit to respondent No. 2 will not be in the interest of justice.

21. Once, the husband of respondent No. 2 had given 17 years of his life to the Department, the Department should be gracious enough to accept



the same so as to grant the benefit admissible to the family of such deceased employee so that they can live a dignified life after the death of such employee.

22. Keeping in view the totality of the facts and circumstances in the present case, no ground is made out for any interference by this Court in the present petition.

23. Dismissed.

24. Pending miscellaneous application, if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 18, 2025
kanchan

Whether speaking/reasoned : Yes

Whether reportable : No