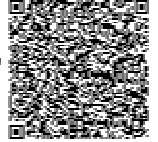


2025:PHHC:052156-DB

CWP-7485-2025 (O&M)
Date of Decision: 24.04.2025

Union of India and others

...Petitioners

Vs.

Ex. Naik Tej Pal

...Respondent

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE H.S. GREWAL**

Present: Mr. N.K. Verma, Sr. Standing Counsel for the petitioners.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The challenge is to the order passed by the Armed Forces Tribunal dated 05.09.2023, whereby the AFT directed as under:-

“2. Learned counsel for the applicant has taken the plea that the applicant had put in 14 years and 256 days of service and as per Regulation 9 of the Pension Regulations for the Army, 1961, Part 1, the applicant is entitled for condonation of shortfall and the case is squarely covered as per the judgment of Larger Bench of Armed Forces Tribunal, Principal Bench, New Delhi in O.A. No.1238 of 2016 with MA 923 of 2016 titled Smt. Shama Kaur vs. Union of India and others, decided on 01.10.2019, which dealt with Regulation 9 and the applicant is entitled for pension for second spell.

3. Learned counsel representing Union of India has not disputed the period of employment and the fact that the case is covered as per judgment in Shama Kaur's case (supra).

4. In the light of this, we dispose of the present OA with a direction to Union of India to decide the case of the applicant in terms of the judgment in Shama Kaur's case (supra) and

payment be released within four months from today, which he shall be entitled to interest @ 8% per annum.

2. Learned counsel for the petitioner submits that in a similar case, the matter was taken up before the Hon'ble Supreme Court, wherein it has stayed the operation of the order. A careful look to the order passed by the Hon'ble Supreme Court in Civil Appeal No.27246/2023, titled **Union of India and others. V. Balakrishnan Mullikote**, reflects that the same does not in any manner deal with the issue, which has been decided by the AFT.

3. In fact, learned counsel fairly admits that the directions issued by the AFT Larger Bench at New Delhi in Shama Kaur case (supra) has been duly implemented. The order passed by the AFT impugned before us simply directs the petitioner to decide the case of the respondent in the same terms as in Shama Kaur case (supra). The order passed by the AFT is simply innocuous and does not take away any rights of the petitioner.

4. The writ petition is wholly misconceived and is accordingly dismissed.

5. All pending misc. applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(H.S. GREWAL)
JUDGE

24.04.2025

rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No