



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

238

CWP-32968-2024 (O&M)
Date of Decision :11.11.2025

Union of India and others

... Petitioners

Versus

Ex. NK Diwan Singh and another

... Respondents

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

Present: Mr. Angel Walia, Senior Panel Counsel
for the petitioners-UOI.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 22.03.2024 (Annexure P-1) passed by respondent No.2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'the Tribunal' by which, the directions were given to the Union of India (petitioners herein) to grant second service pension for service in the DSC to respondent No.1 by condoning shortfall of 01 month and 15 days in service and considering his service as 15 complete years as qualifying service as per the judgment in ***Original Application No.1238 of 2016 with MA No.923 of 2016 decided on 01.10.2019 titled Smt. Shama Kaur vs. Union of India and others***, which judgment has also been implemented but, when the said judgment was relied upon at a later point of time by the Hon'ble Delhi High Court, an appeal preferred by the Union of India, whereby, an interim order was granted and therefore, till the decision of the Hon'ble Supreme Court of India in SLP (C) No.27725-2024, is passed the operation of the impugned



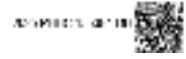
order passed by the Tribunal granting the relief to the respondent No.1 may kindly be stayed.

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

3. The issue which has been raised for consideration is whether, the benefit of condonation of shortfall in qualifying service to the extent of 12 months so as to make the respondent No.1 eligible for the grant of second service pension can be granted in favour of an officer, who retired prior to the completion of 15 years of mandatory service which is a condition precedent to attain the benefit of pension. The prayer of the petitioners is that the respondent No.1 is claiming the benefit of second service pension while he was working in the Defense Security Corps (DSC) wherein, he has not completed 15 years of service which is a condition precedent for grant of second service pension.

4. It may be noticed that the said issue came up for consideration before the Principal Bench of the Armed Force Tribunal in ***Shama Kaur's case (supra)***, wherein the benefit of condonation of the service period upto 12 months for the purpose of granting second service pension was allowed, which judgment has already attained finality and the benefit had been extended to Shama Kaur, who is similarly situated as respondent No.1.

5. Though, at a later point of time, the same judgment was relied upon by the Delhi High Court while deciding a bunch of writ petitions including ***Writ Petition (C) No.2986 of 2024 decided on 04.09.2024 titled Union of India and others vs. EX/NK Chinna Vedyappan***, wherein, the reliance was also placed on ***Shama Kaur's case (supra)*** to adjudicate claim of respondent-Army personnel and on an appeal preferred before the



Hon'ble Supreme Court of India against said order of Hon'ble Delhi High Court in ***SLP (C) No.27725- 2024, titled Union of India and others vs. Ex. NK Chinna Vedyappan, vide order dated 02.12.2024***, the direction has been given not to implement the said order, which has been made the basis by petitioners while asking for stay of impugned order.

6. Now the question which arises for consideration is whether the petition is also liable to be adjourned so as to await the said decision in said case or, the adjudication upon the writ petition filed by the petitioners can be undertaken.

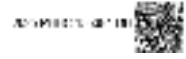
7. It is relevant to mention here that as per the judgment of the Hon'ble Supreme Court of India in ***Union Territory of Ladakh and others vs. Jammu and Kashmir National Conference and another, 2023 SCC Online SC 1140***, the following observations have been made by the Hon'ble Supreme Court of India:

“35. We are seeing before us judgments and orders by High Courts not deciding cases on the ground that the leading judgment of this Court on this subject is either referred to a larger Bench or a review petition relating thereto is pending. We have also come across examples of High Courts refusing deference to judgments of this Court on the score that a later Coordinate Bench has doubted its correctness. In this regard, we lay down the position in law. We make it absolutely clear that the High Courts will proceed to decide matters on the basis of the law as it stands. It is not open, unless specifically directed by this Court, to await an outcome of a reference or a review petition, as the case may be. It is also not open to a High Court to refuse to follow a judgment by stating that it has been doubted by a later Coordinate Bench. In any case, when faced with conflicting judgments by Benches of equal strength of this Court, it is the earlier one which is to be followed by the High Courts, as held by a 5-Judge Bench in National Insurance Company Limited v Pranay Sethi, (2017) 16 SCC

6805. The High Courts, of course, will do so with careful regard to the facts and circumstances of the case before it.”

8.

A bare perusal of the above would show that merely because



Hon'ble Supreme Court of India has held that one matter is pending adjudication before the Hon'ble Supreme Court of India, the law that has already been settled on the said issue on an earlier occasion cannot be ignored and same has to be given due consideration while adjudicating the claim.

9. Further, the learned counsel for the petitioners has not been able to dispute the fact that in ***EX/NK Chinna Vedyappan's case (supra)*** passed by the Delhi High Court, the benefit was granted even to those officers, who had more than one year of service deficit, which needed to be condoned to get the pensionary benefits which is not the case in ***Shama Kaur's case (supra)*** or even in the present petition. Hence, the issue which is pending adjudication before the Hon'ble Supreme Court of India is whether the condonation of service period beyond one year can be granted or not, so as to grant the benefit of second service pension which is not the issue in the present case.

10. The learned counsel for the petitioners has conceded the fact that the issue raised in the present petition was decided in favour of the respondent No.1 on the basis of the judgment in ***Shama Kaur's case (supra)***, wherein the similar relief had already been granted has already attained finality and the said judgment stands implemented. Once the issue in present case is identical to one which has been upheld by the Hon'ble Supreme Court of India, which fact has gone unrebutted, merely waiting for the decision of the Hon'ble Supreme Court of India in SLP (C) No. 27725-2024 so as to decide upon the issue in present case, will not serve any purpose especially in view of the law laid down in ***Union Territory of Ladakh's case (supra)***. Once, the factual assertion that the claim of the



respondent No.1 is covered by *Shama Kaur's case (supra)*, is not disputed, no ground is made out for keeping the present petition in abeyance for adjudication.

11. Further, the Coordinate Bench of this Court while deciding CWP-8886-2025 decided on 24.04.2025 titled *Union of India and others vs. Ex. Naik Kuldeep Singh*, after noticing the said fact, have decided the claim based upon *Shama Kaur's case (supra)*, wherein also, the fact that the same was covered by *Shama Kaur's case (supra)*, could not be rebutted.

12. Keeping in view the totality of the circumstances as well as the settled principle of law as noticed hereinbefore, as it has not been shown that the order passed by the Tribunal is perverse either to the facts on record or settled principle of law, no interference at the hands of this Court is needed.

13. No ground is made out for interference by this Court.

14. The present writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

November 11, 2025
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No