



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

CWP No.34288 of 2024

Date of Decision: 29.01.2025

Union of India and others

...Petitioners

Versus

Smt. Sunaina and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Sourabh Goel, Senior Standing counsel
for the petitioners.

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SANJEEV PRAKASH SHARMA J.(Oral)

The present writ petition has been filed assailing the order dated 01.05.2024 (Annexure P-3) passed by the Central Administrative Tribunal, Chandigarh (for short, 'CAT') in the **O.A. No.060/00438/2019** filed by the widow of the deceased-employee Santosh Kumar, whereby she claimed release of the family pension and death-cum-retiral benefits of her late husband and also sought quashing of the order dated 12.04.2019 (Annexure A-8) by which her claim was rejected after the first round of litigation before the CAT whereby the CAT had directed to decide the legal notice.

2. The admitted position is that respondent No.1's husband was granted temporary status by the petitioners on 01.09.1993. He had been working since 1990 and was continued in the said capacity as a 'Group-D' employee. Learned counsel for the petitioners-UOI submits that in terms of the Casual Labourers (Grant of Temporary Status and Regularisation)



Scheme 1993, he was not entitled to pensionary benefits and therefore, family pension could not have been granted to him. Learned counsel submits that there cannot be a concept of deemed regularization of the deceased employee and the order passed by the CAT, therefore, is erroneous.

3. We have given our thoughtful consideration to the said aspect.

In ***Union of India & Ors. vs. Munni Devi, 2020 (2) SCT 11***, Delhi High Court has passed the following order:-

“32. Clearly, therefore, despite the availability of vacancies, Sunder Singh and the deceased husbands of Munni Devi and Shashi respectively, were not regularised against such vacancies. Consequently, the Court finds no reason whatsoever to interfere with the impugned orders of the CAT.

Conclusion

33. While the Respondents in WP(C) No. 5907/2017 and 1767/2018 would be entitled to the reliefs as granted by the CAT including family pension, the arrears are confined to a period of three years prior to their filing their respective OAs before the CAT. The impugned orders of the CAT in their respective OAs stand modified accordingly. As far as Sunder Singh is concerned, he has served the full pensionable service and his petition before the CAT was also not belated. Therefore, in his case the impugned order of the CAT is affirmed as such.

34. The consequential orders be passed by the Petitioners and this order be implemented not later than twelve weeks from today failing which the Petitioners would be liable to pay each of the Respondents 6% simple interest p.a. on the sums due for the period of delay.

35. The petitions and applications are disposed of in the above terms with costs of Rs.10,000/- in each petition to be



paid by the Petitioners to the Respondents within twelve weeks.”

4. Again in this Court in ***Alka Sharma vs. Union of India & Ors., (2017) 02 P&H CK 0081*** the following order was passed which has been noticed by the Hon’ble Division Bench:-

“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."

5. We find that in ***Secretary, State of Karnataka and Others Vs. Uma Devi and Others; 2006 (4) SCC 1***, Hon'ble the Supreme Court has passed the following order:-

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappal, R.N. Nanjundappa and B.N. Nagarajant and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders



of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

6. The directions of Hon’ble the Supreme Court, thus, were required to be implemented by the petitioners and since the husband of the respondent No.1 had put in more than 10 years of service as on the day when the judgment was passed by Hon’ble the Supreme Court in ***Uma Devi case*** (*supra*) he was required to be treated as regularized w.e.f. 2000 onwards since he completed 10 years of service. He would have, therefore, been entitled to all the benefits as a regular employee.

7. However, considering the limited prayer made by the respondents, we do not go into the said aspect and only allow the prayer as made by respondent No.1-widow who is claiming her family pension and



death-cum-retiral benefits including gratuity. Accordingly, the order passed by the CAT, therefore, does not warrant any interference and the petitioners are directed to implement the orders passed by the CAT calculating his retiral benefits treating him as deemed to be regularized, in terms of the judgment passed by Hon'ble the Supreme Court in ***Uma Devi case (supra)***, w.e.f. 2000 and considering accordingly it is from the date of death family pension shall be released. The death-cum-gratuity and other retiral benefits, as available on the said date, shall be released in favour of respondent No.1. The family pension arrears shall also be released. The entire exercise shall be completed within a period of three months. The interest on the arrears of family pension and gratuity @ 9% per annum shall also be released to the respondent No.1.

8. With the aforesaid observations, the present writ petition is dismissed accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

January 29, 2025
seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>