IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No.3030 of 2020

Decided on: 27th April, 2026

Shahdi Devi **....Petitioner**

Versus

State of Himachal Pradesh and anr. **...Respondents**

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

Whether approved for reporting?[1]

For the petitioner:	Mr. Rakesh Kumar Dogra, Advocate.
For the respondents:	Mr. Amandeep Sharma, Additional Advocate General.

Jiya Lal Bhardwaj, Judge *(Oral)*

By way of present petition, the petitioner has prayed for the following substantive reliefs:-

> *i) That a writ in the nature of mandamus may kindly be issued, directing the respondents to pay Death-cum-Retirement Gratuity amount alongwith interest @9% per annum to the petitioner and further, at the same rate of interest i.e. 9% per annum be also paid to the petitioner on arrear of pension, from due date till its realization.*
>
> *ii) That a writ in the nature of mandamus may also be issued, directing the respondents to refund a sum of Rs.28,011/- to the petitioner,*

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

which has already been recovered from the arrear of pension, without assigning any reason."

2. Shorn of unnecessary details, the key facts of the case are that the husband of the petitioner was engaged as Beldar w.e.f. 01.01.1990 and after completion of 10 years of daily wage service with minimum 240 days in each calendar year as on 31.12.1999, he was regularized as per the Government Regularization Policy dated 24.12.2002 with prospective effect. The petitioner joined as work charge Beldar on 17.01.2003 and retired from service on attaining the age of superannuation i.e. 58 years on 31.05.2007. Thereafter, as per notification dated 18.02.2008, his services were regularized again w.e.f. 01.01.2000.

3. Due to regularization of the husband of the petitioner before 10.05.2001, he was entitled/required to be superannuated from service at the age of 60 years instead of 58 years. However, before passing the order of retrospective regularization, he was superannuated from government service at the age of 58 years on 31.05.2007.

4. The petitioner, who was not granted the benefit of 2 years service had approached the erstwhile Tribunal by filing **Original Application No.3486 of 2018**, titled, ***Smt. Shahdi Devi vs. State of Himachal Pradesh and another***, which came to be disposed of on 06.07.2018, directing the respondents that in case, the husband of the petitioner was similarly situated as that of the appellant in **Civil Appeal No.6309 of 2017**, titled, ***Sunder Singh vs. The State of H.P. and ors.***, the same benefits shall be paid to her.

5. After passing of the order by the Tribunal, respondent No.2 passed an office order on 17.08.2019, based on the information given by the Engineer-in-Chief, the husband of the petitioner was entitled only for notional pension benefits of counting the said period of 2 years towards length of service for calculating pension, but not for monetary benefits. After counting of 2 years of notional benefit period, the total length of service rendered by the husband of the petitioner was determined as 11 years and 5 months of regular service and on

the parity of ***Sunder Singh vs. State of H.P***., he was held entitled to avail the benefit 2 years of daily wage of service for pension as his service has been regularized on the analogy of ***Mool Raj Upadhyaya*** after completion of 10 years of daily wages service.

6. In terms of the order passed by respondent No. 2, the petitioner has been granted certain benefits. However, the grievance of the petitioner, as averred in the petition and highlighted by learned counsel representing her, is that though the arrears of pension for the period w.e.f. 01.01.2018 to 30.09.2019 were calculated/worked out at Rs. 2,03,770/-, but no interest has been paid on the said amount. It is further contended that a sum of Rs. 28,011/- has been recovered from the arrears of pension/family pension of the petitioner, without assigning any reason, which is wrong, illegal and arbitrary. The grievance of the petitioner, as averred in the petition and highlighted by learned counsel is also that although a period of two years has been counted, the benefits have been granted only on notional basis, whereas the husband of the petitioner

was entitled to the same on an actual basis.

7. Since the Tribunal had directed to extend the benefits, in case, the husband of the petitioner is similarly situated as per the dictum passed in ***Sunder Singh's case (supra)***, all consequential benefits shall be paid to the petitioner.

8. The respondents filed reply to the petition and have not not disputed the facts as narrated in the petition. It has been averred that the period of 2 years between 58 to 60 years w.e.f. 31.05.2007 to 31.05.2009 has been taken into account and the benefit of the judgment has been given to the petitioner.

9. So far, the amount of Rs.28,011/- is concerned, which was deducted from the amount due to the petitioner, the said amount has been credited into her account on 22.10.2020 by the District Treasury Office, Mandi and the petitioner has also been paid the arrears of pension in terms of the judgment passed by the Hon'ble Supreme Court.

10. The petitioner has not filed any rejoinder to the

reply filed by the respondents.

11. I have heard the learned counsel for the parties and also perused the record carefully.

12. It is not in dispute that the husband of the petitioner, who had retired from service on 31.05.2007, has been granted the benefit of 2 years service till 31.05.2009, but on notional basis. Since, the husband of the petitioner had not actually worked during the said period, the petitioner was not entitled to receive the monetary benefits.

13. So far as the amount, which is said to have been illegally recovered from the petitioner, amounting to Rs. 28,011/-, is concerned, the said amount has been credited into the account of the petitioner on 22.10.2020, which fact has not been denied by the petitioner, since no rejoinder to that effect has been filed. The only question, which now remains to be adjudicated, is whether the petitioner is entitled to interest on the arrears w.e.f. 01.01.2018 to 30.09.2019, which is worked out to be Rs. 2,03,770/-.

14. Once, the petitioner had retired on 31.05.2007, though he was to retire on 31.05.2009, the respondents have rightly counted the said period for the purpose of granting the benefit to the petitioner on notional basis, but the respondents are not justified in not paying the interest on the amount of arrears of pension.

15. The petitioner, before filing the present petition, had approached the Tribunal, and the Tribunal had disposed of the Original Application on 06.07.2018, with a direction to the respondents to grant the benefit in terms of the judgment passed in ***Sunder Singh's case (supra)***, in case the husband of the petitioner is found to be similarly situated and to release the amount. However, the same was not done, and once there is a delay on the part of the respondents in defraying the arrears, the petitioner, who is a widow and whose husband had retired on 31.05.2007, is entitled to interest at least w.e.f. 01.10.2018 till the arrears were paid to her.

16. Consequently, the present petition is allowed and

the respondents are directed to pay the interest on the arrears of pension w.e.f. 01.10.2018 till actual payment @6% per annum. Pending application(s), if any, shall also stand disposed of.

27th April, 2026 **(Jiya Lal Bhardwaj)**

(ankit) **Judge**