



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

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CWP-7907-2026

Date of Decision : 16.03.2026

Union of India and others

...Petitioners

Versus

Ex. LNK (DSC) Kashmir Singh and another

...Respondents

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

Present: Ms. Bhavana Datta, Senior Panel Counsel
for the petitioners.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the order dated 01.02.2023 (Annexure P-1), passed by respondent No.2 – The Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as ‘the Tribunal), by which, directions were given to the Union of India (petitioners herein) to grant benefit of service pension to respondent No.1 by considering his service as 15 complete years by condoning shortfall of 296 days in qualifying service period for grant of benefit of service pension 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.

2. Learned counsel for the petitioners submits that when the said judgment was relied upon at a later point of time by the Hon’ble Delhi High Court, on an appeal preferred by the Union of India against the order passed



by the Hon'ble Delhi High Court, an interim order has been granted and therefore, till the decision of the Hon'ble Supreme Court of India in SLP (C) No.27725-2024 is passed and attains finality, the operation of the impugned order passed by the Tribunal granting the relief of condonation of shortfall in qualifying service period to the respondent may kindly be stayed.

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

4. It is a conceded fact that husband of the respondent enrolled in Indian Army on 10.11.1984 and was discharged on 30.11.2001 after completing 17 years of service thereafter he was re-enrolled in Defence Security Corps (DSC) for second service on 27.09.2006 and was discharged from DSC on 01.12.2020 after rendering 14 years and 02 months and 04 days having shortfall of 296 days to qualify the term of 15 years for the grant of service pension qua service rendered in DSC.

5. The issue which has been raised is whether, the benefit of condonation of shortfall in qualifying service to the extent of 296 days 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 for grant of such benefit. The prayer of the petitioners is that the respondent is claiming the benefit of second pension for the service he rendered in the Defense Security Corps (DSC) wherein, 15 years of service, completion of which service period is a condition precedent for grant of second service pension was not fulfilled.

6. 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 shortfall in completion of qualifying service period upto 12 months was allowed, which judgment has already attained finality and the same benefit had been extended in **Shama Kaur (supra)**.

7. 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)**, for purpose of condonation of shortfall in completion of qualifying service period, and on an appeal preferred before the Hon'ble Supreme Court of India 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 by the Hon'ble Supreme Court of India not to implement the said order.

8. Now question which arises is that whether the present petition is also liable to be adjourned to await the said decision or, the adjudication of the writ petition filed by the petitioners can be undertaken.

9. 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.”

10. 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.

11. 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 the officers, who had sought more than one year of service to be condoned to get the pensionary benefits, which was not the case in **Shama Kaur’s case (supra)** or even in the present petition. Hence, the issue before the Hon’ble Supreme Court of India is that whether the benefit of condonation in shortfall beyond one year can be granted or not, so as to grant the pension which issue does not arise in the



present petition.

12. The learned counsel for the petitioners has conceded the fact that the issue raised in the present petition was decided in favour of respondent No.1 on the basis of the judgment in ***Shama Kaur's case (supra)***, wherein the similar relief had already been granted and which judgment has already attained finality upto Hon'ble Supreme Court of India 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 un rebutted, 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 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.

13. 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.

14. 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 dated 01.02.2023 (Annexure P-1) 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.



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- 15. No ground is made out for interference by this Court.
- 16. The present writ petition is dismissed.
- 17. Pending applications, if any, also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

March 16, 2026
Varinder

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No