



2025:DHC:3188-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 29.04.2025

+ W.P.(C) 12420/2024

UNION OF INDIA AND ORS

.....Petitioners

Through: Mr. Abhishek Sharma, Mr.
Piyush Gaur & Ms.Neha
Mishra, Advs.

versus

BIMLA DEVI

.....Respondent

Through: Mr.Ranjit Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 70892/2024 (Exemption)

1. Allowed, subject to all just exceptions.

**W.P.(C) 12420/2024 & CM APPL. 51665/2024, CM APPL.
70891/2024**

2. This petition has been filed by the petitioners, challenging the Order dated 19.01.2024 passed by the learned Central Administrative Tribunal (PB), New Delhi (hereinafter referred to as 'Tribunal') in Original Application (O.A.) No. 2282 of 2022, titled '*Bimla Devi v. Union of India & Ors.*', allowing the said O.A. filed by the respondent with the following relief:

"16. Resultantly, the O.A. is allowed and the impugned letter dated 26.11.2019 is quashed and set aside. The respondents are directed to treat the services of Shri Bhagmal, deceased husband of the applicant, as deemed



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regularised from the date of his demise, i.e. 31.10.2006, and grant her family pension and pensionary benefits along with arrears and release all payments to the applicant as expeditiously as possible but not later than three months from the date of receipt of a copy of this order. In case, the arrears of pensionary benefits are not paid within the above stipulated time, the same will draw interest at the rate applicable to GPF deposits till the date of actual payment.”

BRIEF FACTS

3. As a brief background of the facts in which the present petition arises, the husband of the respondent was appointed as a Casual Labour with the petitioner on 18.06.1983. Subsequently, by an order dated 20.08.1991, he was conferred the Temporary Status as Casual Labour (TS) w.e.f. 29.11.1989. He was further treated at par with Group-‘D’ employees (Temporary Status) w.e.f. 29.11.1992. Unfortunately, he passed away in harness on 31.10.2006.

4. On the death of the husband of the respondent, the respondent applied for the grant of compassionate appointment for her son, which was rejected by the Assistant Director (Rectt.), Delhi Circle, New Delhi-110001 *vide* an order dated 04.06.2012.

5. The respondent then made a representation for grant of the retiral benefits of her husband, treating her husband to be as a regular employee of the petitioner.

6. The said representation was rejected by the petitioners *vide* letter dated 26.11.2019. The same was challenged by the respondent before the learned Tribunal by way of the said O.A., and as noted hereinabove, the same has been allowed by the learned Tribunal,



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placing reliance on the judgement of the Supreme Court in *Yashwant Hari Katakhar v. Union of India & Ors.*, (1996) 7 SCC 113, as also of this Court in *Union of India & Ors. v. Munni Devi*, 2020 SCC OnLine Del 118, and in *Smt. Sharda Devi v. Union of India & Ors.*, 2013 SCC OnLine Del 1588.

SUBMISSIONS BY THE LEARNED COUNSEL FOR THE PETITIONERS

7. The learned counsel for the petitioner submits that the learned Tribunal has erred in granting the relief to the respondent not appreciating that the husband of the respondent was not entitled to regularization in terms of the Judgment dated 25.09.2014 of the Supreme Court in Civil Appeal No. 3488/2010 titled as *S.P. Uniyal & Ors. v. Union of India*.

8. He submits that it has wrongly been observed by the learned Tribunal that Sh. Ganesh Singh was a junior to the respondent's husband Sh. Bhagmal. He submits that in fact, the husband of the respondent was quite below in the seniority list and therefore, was not entitled to regularization at the time of his death on 31.10.2006.

9. He also submits that there was a considerable delay in filing of the OA before the learned Tribunal, in as much as, the husband of the respondent had died on 31.10.2006 while the OA was filed sometime only in 2022. He submits that in fact the order rejecting the grant of compassionate appointment on the similar grounds passed by the petitioner, was not challenged by the respondent and therefore, the OA was not only delayed but also has been filed as an afterthought.



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SUBMISSIONS BY THE LEARNED COUNSEL FOR THE RESPONDENT

On the other hand, the learned counsel for the respondent submits that as far as the issue of regularization of Temporary Status Workmen are concerned, this Court in *Munni Devi*' (supra) had considered the said issue in detail, and by placing reliance on various precedents on the said issue, had directed that the Temporary Status Workmen are entitled to regularization. He also places reliance on the judgment of the Supreme Court in *Yashwant Hari Katakkar* (supra), and of this Court in *Sharda Devi* (supra).

10. He submits that in *S.P. Uniyal* (supra), again, the Supreme Court had directed that such Temporary Status employees should be considered for regularization in terms of the availability of regular vacancies. He submits that the petitioner, however, rejected the claim of the respondent without considering the same and therefore, the learned Tribunal has rightly passed the above direction and granted the relief to the respondent.

ANALYSIS AND FINDINGS

11. We have considered the submissions made by the learned counsels for the parties.

12. In the present case, it is not disputed by the petitioners that the husband of the respondent had been working with the petitioners right from 18.06.1983 until his death on 31.10.2006, that is, for a period of



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more than 23 years. It is also not denied that he had been treated at par with Group-D (Temporary Status Employees) with effect from 29.11.1992. The only defense raised by the petitioners to the O.A. filed by the respondent and now in the present petition is that the husband of the respondent was a temporary status casual labour.

13. In *S.P. Uniyal* (supra), the Supreme Court, considering a similar claim of regularization as Multi Tasking Staff, had directed that the employee who had died therein should also have been regularized against the available vacancies, and the respondents therein should consider the claim of the family members of the said employee for grant of family pension and/or other retiral benefits as are due to the regular employees.

14. This Court, in *Sharda Devi* (supra), by placing reliance on Casual Labourers (Grant of Temporary Status in Regularization) Scheme, 1989, on similar facts as in the present petition rejected a similar challenge as the one raised by the petitioners herein by observing as under:

“9. We note that as per the policy those who had acquired temporary status were entitled to be regularized against regular vacancies as and when they arose. In a somewhat similar circumstance, in the decision pronounced by the Supreme Court which is reported as 1996 (7) SCC 113 Yashwant Hari Katakhar Vs. UOI & Ors. the Supreme Court opined that it would be unbelievable that a temporary status employee could not be made permanent even after serving for 18^{1/2} years. Pension was directed to be paid.

11. As per the policy, upon regularization, temporary service rendered has to be counted



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for purposes of pensionary benefits.”

15. This Court, again in ***Munni Devi*** (supra), considering various precedents on this issue, as also the above referred scheme, again rejected a similar challenge to the one raised by the petitioners herein.

16. The petitioners have been unable to show to us, apart from making a vague statement, that there were no vacancies that were available for the regular post against which the husband of the petitioner could have been regularized, even though he had worked for more than 23 years.

17. As far as the plea of the petitioners that there was delay and laches in the respondent approaching the learned Tribunal, we are of the opinion that only for the said reason it cannot be said that the O.A. was not maintainable or relief could not have been granted therein.

18. Applying the ratio of the Judgment of the Supreme Court in ***Union of India & Ors. v. Tarsem Singh***, (2008) 8 SCC 648, the only relief that can be granted to the petitioners is that the relief granted to the respondent by the learned Tribunal be confined to a period commencing from 3 years prior to the filing of the O.A. We may quote from the said Judgment as under:-

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in



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*seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. **Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.***

(Emphasis Supplied)

19. In view of the above, the present petition is disposed of by modifying the Impugned Order to the limited extent that the petitioners shall release the pensionary and other benefits to the wife of the deceased employee, that is, the respondent herein, treating the deceased employee-Sh. Bhagmal as a regular employee on the date of his death. The arrears of the pensionary benefits shall, however, be payable only for the period commencing from 3 years prior to the date of filing of the above O.A. before the learned Tribunal.

20. The arrears shall be released by the petitioners to the respondent along with interest at the rate of 6% per annum.

