



**CM-5245-CWP-2025 and
CM-5246-CWP-2025 in/and
CWP-26368-2023**

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

(112+213)

**CM-5245-CWP-2025 and
CM-5246-CWP-2025 in/and
CWP-26368-2023
Date of Decision : August 07, 2025**

No. 13729667 Ex-Sep Jarnail Singh

.. Petitioner

Versus

Union of India and others

.. Respondents

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

Present: Mr. Rajesh Sehgal, Advocate, for the petitioner.

Mr. Anil Chawla, Sr. Panel Counsel, for respondent-UOI.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-5245-CWP-2025

Present application has been filed by the applicant-respondents for placing on record the reply and Annexures R-1 and R-2.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Reply as well as Annexures R-1 and R-2 are taken on record.

CM-5246-CWP-2025

Present application has been filed by applicant-respondents for seeking exemption from filing certified copies of Annexures R-1 and R-2.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed.

CWP-26368-2023

1. In the present writ petition, the challenge is to the order dated



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28.11.2019 (Annexure P-1) passed by the Armed Forces Tribunal, Chandigarh Bench (hereinafter referred to as ‘Tribunal’) wherein, the claim of the petitioner for the grant of pension has been disposed in terms of the **OA No.1238 of 2016 with MA No. 923 of 2016 titled Smt. Shama Kaur vs. Union of India and others, decided on 01.10.2019** but the arrears for which the petitioner becomes entitled for have been restricted for a period of three years from the date of filing of the original application i.e. 02.04.2018, which is causing prejudice to the petitioner.

3. Learned counsel for the petitioner argues that the petitioner is aggrieved against the restriction of the arrears for a period of three years prior to the filing of original application especially when in **Shama Kaur’s case (supra)**, the said benefit of arrears have been granted from the year 2001 and nothing evident has come on record that the petitioner is in any way different than Shama Kaur so as to not receive the said benefit from the year 2001.

4. Learned counsel for the respondent-Union of India has raised two objections (i) that the writ petition cannot be filed before this Court as the petitioner has to approach the Himachal Pradesh High Court (ii) that once there is a delay in approaching the Court for the grant of relief, the Court was within its jurisdiction to mold the relief so as to grant the arrears for a period of three years prior to the filing of the original application which is perfectly valid and legal and the relief as prayed for has been granted and therefore, the writ petition may kindly be dismissed.

5. We have heard learned counsel for the parties and have gone through the record with their able assistance.



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6. The first issue which needs to be decided is whether, this Court will have jurisdiction to entertain the present petition as the respondents have raised the objection that the petitioner should approach the Himachal Pradesh High Court as the petitioner is concededly the resident of District Kangra, which comes under the territorial jurisdiction of Himachal Pradesh High Court.

7. Learned counsel for the petitioner submits that the aforesaid issue was raised by the respondent-Union of India in ***CWP No.26079 of 2023 titled as Champa Thakur vs. Union of India and others, decided on 30.09.2024*** and the Division Bench, in paragraph 6, rejected the said contention.

8. Learned counsel for the petitioner further submits that once the similarly situated employee who was also a resident of Himachal Pradesh, the writ petition was filed before this Court against the order passed by the Armed Forces Tribunal, which is situated within the jurisdiction of this Court, has been held to be valid, the objection raised by the respondents is not valid and cannot be accepted.

9. Learned counsel for the respondent-Union of India has not been able to dispute the order passed by the Division Bench in ***Champa Thakur's case (supra)*** holding the territorial jurisdiction of this Court even qua the employee who is a resident of Himachal Pradesh but was assailing the order passed by the Armed Forces Tribunal, which is situated within the jurisdiction of this Court hence, the said objection is accordingly rejected.

10. The grievance of the petitioner is that the arrears have been



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restricted for a period of three years prior to the filing of original application by the Tribunal, which is incorrect.

11. Learned counsel for the petitioner argues that the eligibility to get the benefit of pension, which have been extended by the respondents, only came in the year 2001 after the benefit of condonation of deficiency in service of 121 days was extended.

12. Learned counsel for the petitioner submits that one Surender Singh Parmar claimed the same relief on the basis of the amendment which was done to the Rules on 14.08.2001 so as to grant the condonation of deficiency in service and grant him pension and the said Surender Singh Parmar was granted relief along with arrears from the year 1985 i.e. the date when he had retired.

13. Ultimately, the Hon'ble Supreme Court of India held that keeping in view the fact that the eligibility to get the pension only started from 14.08.2001, the arrears prior to the said date cannot be given even if an employee had retired prior to the said date.

14. Learned counsel for the petitioner further submits that even in *Shama Kaur's case (supra)*, the original applications in the year 2016 and 2018 to claim the same relief which was claimed by the petitioner and the Principal Bench, New Delhi allowed the benefit of pension along with the arrears from 14.08.2001.

15. Learned counsel for the petitioner further submits that once the respondents agreed that the claim regarding the release of arrears of the pension of the petitioner is covered by the judgment of the Armed Forces



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Tribunal, Principal Bench, New Delhi in *Shama Kaur's case (supra)*, coupled with the fact that in *Shama Kaur's case (supra)*, the original applications were filed in the year 2016 and 2018, modification of the order of the Tribunal by restricting the arrears to three years prior to the filing of the original application is incorrect, especially when said restriction was not in *Shama Kaur's case (supra)*.

16. Once, the benefit claimed is akin to what which was granted to Shama Kaur, the same benefit of arrears should have been extended and without there being any justification, the benefit of arrears have been restricted by the Tribunal by ignoring that a Principal Bench of three members had allowed the same benefit of arrears from 14.08.2001 in the case of similarly situated employees who had also approached in the year 2018.

17. Learned counsel for the respondent-Union of India has not been able to rebut the said fact and the judgment in *Shama Kaur's case (supra)*, has already been upheld by the Hon'ble Supreme Court of India implemented by the respondents.

18. Learned counsel for the respondent-Union of India has not been able to rebut that the Department has already accepted the judgment in *Shama Kaur's case (supra)* and has implemented the same and he has not been able to point out any differentiating fact so as to restrict the arrears in the present case which had been awarded in *Shama Kaur's case (supra)*.

19. Learned counsel for the respondent-Union of India has relied upon the judgment of the Hon'ble Supreme Court of India in *Civil Appeal*



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No.5760-5761 of 2018 titled as Col. Opendra Kumar Verma (Retd.) vs. Union of India and others, decided on 05.12.2019, to hold that the benefit of arrears should be restricted to three years.

20. It may be noticed that in a normal case, the said Rule can be applied but where, the respondents themselves have extended the benefit of arrears to a similarly situated employee on the basis of the direction given by the Principal Bench of Armed Forces Tribunal from 14.08.2001, accepting the plea will amount to discrimination between the similarly situated employees and will be violative of Article 14 of the Constituion of India hence, the same can be applicable in the present case.

21. That being so, the petitioner cannot be treated in a different manner and therefore, the order dated 28.11.2019 (Annexure P-1) passed by the Tribunal restricting the arrears for a period of three years from the date of filing of the original application is set aside and the petitioner is also held entitled for arrears as granted in *Shama Kaur's case (supra)* from 14.08.2001. Let the arrears be released in favour of the petitioner within a period of eight weeks from the date of receipt of copy of this order.

22. The present writ petition is allowed in above terms.

**(HARSIMRAN SINGH SETHI)
JUDGE**

August 07, 2025
harsha

**(VIKAS SURI)
JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No