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

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Date of Decision :25.08.2025

Union of India and others

..Petitioners

Versus

Ex. NK Jarmail Singh & another

...Respondents

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

Present: Mr. Dharm Chand Mittal, Senior Panel Counsel
for petitioners-UOI.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 09.08.2024 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh, by which, the claim of the respondent No.1 for the grant of benefit of service pension by condoning the shortfall of 04 months and 19 days in service has been allowed by the Tribunal by placing reliance upon the judgment in **O.A.1238 of 2016 with M.A.923-2016 titled as Smt Shama Kaur vs. Union of India and other, decided on 01.10.2019.**

2. We have heard learned counsel for the petitioners and have gone through the case file with his able assistance.

3. It may be noticed that the same question of law has come up for



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consideration before this Court in **CWP-14095-2025 titled as Union of India and others vs. Ex.Naik Hardev Singh and another, decided on 19.08.2025** wherein, the same plea was taken by the petitioners-UOI and after considering the said plea, the following order was passed by this Court:-

7. 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 service period upto 12 months was allowed, which judgment has already been upheld by the Hon'ble Supreme Court of India and the benefit had been extended to Shama Kaur.

8. Though, at a later point of time, the same judgment has been 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*), 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 not to implement the said order.

9. Now question arises whether both the petitions are also liable to be adjourned to await the said decision or, the adjudication of the writ petition filed by the petitioners can be undertaken.

10. 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.”

11. A bare perusal of the above would show that merely one matter is pending before the Hon'ble Supreme Court of India, for adjudication the law that has already been settled on the said issue on an earlier occasion cannot be ignored.

12. 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 more than one years condoned needed to get the benefits which is 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 whether the condonation beyond one year can be granted or not, so as to grant the pension which issue does not arise in the present petition.

13. The learned counsel for the petitioner has conceded the fact that the issue raised in the present petition was decided in favour of the respondents on the basis of the judgment in Shama Kaur's case (supra), wherein the similar relief has already been granted has already attained finality 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, 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 respondents 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.

*14. 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.”*

4. Learned counsel for the petitioners has not been able to rebut that the issue raised in the present petition has already been decided by this Court while passing order in **Ex.Naik Hardev Singh (supra)**. Even otherwise issue before the Hon'ble Supreme Court of India is whether condonation of service even beyond 01 year can be done whereas, in the present case condonation is for a period which is less than one year, which is the same as in **Shama Kaur (supra)**, which fact has gone un rebutted at the hands of petitioners.



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5. Keeping in view the same, present petition is also dismissed in terms of the order passed by this Court in *Ex.Naik Hardev Singh (supra)*.
6. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

August 25, 2025
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No