

\$~
*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 19th December, 2019

Decided on: 6th January, 2020

W.P.(C) 5907/2017 & CM APPL. 24603/2017

UNION OF INDIA & ORS Petitioners
Through: Mr. R.V.Sinha, Mr.A.S. Singh, Mr.
Amit Sinha and Mr. Vaibhav Pratap
Singh, Advocates

versus

MUNNI DEVI Respondent
Through: Mr. G.S. Lobana, Advocate with Mr.
Basab Sen Gupta, Advocate

W.P.(C) 1767/2018 & CM APPL. 7332/2018

UNION OF INDIA & ORS Petitioners
Through: Mr. R.V.Sinha, Mr.A.S. Singh, Mr.
Amit Sinha and Mr. Vaibhav Pratap
Singh, Advocates

versus

SHASHI Respondent
Through: Mr. Deepak Verma, Advocate

W.P.(C) 3565/2019 & CM APPL. 16318/2019

UNION OF INDIA AND ORS. Petitioners
Through: Mr. R.V.Sinha, Mr.A.S. Singh, Mr.
Amit Sinha and Mr. Vaibhav Pratap
Singh, Advocates

versus

SUNDER SINGH Respondent
Through: Mr. Subhash Chandra and Mr.

Deepak Verma, Advocates

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH

J U D G M E N T

Dr. S. Muralidhar, J.:

1. These are three petitions filed by the Union of India through the Department of Posts ('DOP'), Ministry of Communications and the Post Master General (PMG), Agra Region, Agra and the Superintendent of Post ('SOP') Agra, giving rise to common questions of law. Each of the petitions is directed against the order of the Central Administrative Tribunal, Principal Bench, New Delhi ('CAT') in the OAs filed by the Respondents herein.

2. While W.P.(C) No. 5907/2017 is directed against the order dated 20th March, 2017 passed by the CAT in OA No. 1631/2016 filed by the Respondent Munni Devi, W.P.(C) No.1767/2018 is directed against the order dated 9th October, 2017 passed by the CAT in OA No. 1842/2016 filed by Shashi. The third writ petition being W.P. (C) No. 3565/2019 is directed against an order dated 28th December, 2018 passed by the CAT in OA No.2500/2014 filed by Sunder Singh.

3. The central issue in all three petitions is whether the prayer of each of the Respondents for pensionary and retiral benefits, by treating casual labourers who were granted temporary status as those who were regularly employed, was tenable?

Facts in W.P.(C) No. 5907/2017

4. In the case of Munni Devi, her deceased husband Chander Bhan joined the office of the SOP in Bulandshahr as a casual worker on 26th May, 1987. He acquired temporary status with effect from 29th November, 1989. Chander Bhan died in harness on 23rd September, 2004. Munni Devi then requested the Department to grant her family pension and retiral benefits with interest at 18% per annum.

5. When the Department declined to grant such benefits, Munni Devi filed OA No. 4273/2014 in the CAT. In the said OA she relied on the decision dated 25th April, 2013 of this Court in W.P. (C) No. 3018/2012 (***Sharda Devi v. Union of India***). Munni Devi's OA 4273 of 2014 was disposed of by the CAT by an order dated 27th August, 2015, which reads as under:

“In view of the aforementioned, the Original Application is disposed of with liberty to the applicant to make a representation to respondent No.3 within a period of two weeks from the date of receipt of a copy of this Order and if the representation is made within the given time, respondent No.2 would hear the applicant personally and take a decision regarding entitlement of the applicant to pension and pensionary benefits, within four weeks from receipt of representation, with due regard to the aforementioned judgment of Hon'ble High Court of Delhi.”

6. Munni Devi submitted a representation on 17th September, 2015, which came to be rejected by the PMG, Agra on 3rd November, 2015 on the ground that in the absence of vacancies to be calculated for regularisation of the casual labour during 1990 to 2004, Chander Bhan's services had not been regularised.

7. Munni Devi preferred Contempt Petition (CP) No.795/2015 in the CAT. However, it was dismissed by the CAT as withdrawn granting her the liberty to file a fresh OA. Pursuant thereto, she filed OA No.1631/2016 praying *inter-alia* that she be granted family pension and other pensionary/retiral benefits by treating Chander Bhan on par with temporary Group 'D' employees of the DOP with effect from 23rd September, 2004, i.e., three years after the grant of temporary status to him. She also prayed for interest at 18% p.a. on the said sum.

8. Before the CAT, reliance was placed by counsel for Munni Devi on the decisions in *Jagrit Mazdoor Union v. Mahanagar Telephone Nigam Limited 1990 (Suppl) SCC 113* and *Prabhawati Devi v. Union of India JT 1996 SC (7) 27*. The CAT's attention was drawn to Rule 10 (2) of the CCS (Temporary Service) Rules, 1965 which reads as under:

“In the event of death of a temporary Government servant while in service, his family shall be eligible for family pension and death gratuity at the same scale and under the same provisions as are applicable to permanent central civilian Government Servants under the Central Civil Services (Pension) Rules, 1972.”

9. The CAT, in the impugned order dated 20th March 2017, held that Chander Bhan had acquired temporary status and had completed more than three years of continuous service thereafter. This was the only requirement for treating him as being on par with Group 'D' employees for the purposes of grant of pensionary benefits. It was noted that by the time he had been granted temporary status on 29th November 1989, Chander Bhan had put in at least 15 years of continuous uninterrupted service before dying in harness

on 23rd September, 2004. The CAT noted that in *Sharda Devi (supra)* this Court had, after discussing the decisions of the Supreme Court held 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 circumstances, in the decision pronounced by the Supreme Court which is reported as 1996 (7) SCC 113 Yashwant Hari Katakkar 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.”

10. Accordingly, by the impugned order dated 20th March, 2017 in OA No.1631/2016 the CAT held that the case of Munni Devi was squarely covered by the decision of this Court in *Sharda Devi (supra)* and that she was entitled to pensionary benefits. While allowing the OA No.1631/2016, the CAT directed as under:

“to calculate the pensionary benefits of the applicant including the family pension and release all the arrears of pensionary benefits @ 8% per annum from the date it became due till the date actual payment is made to the applicant, within a period of three months from the date of receipt of certified copy of this order.”

Facts in W.P. (C) 1842 of 2016

11. The background facts in OA No. 1842/2016, out of which W.P. (C) No.1767/2018 arises, are that Ravi Shankar, who is the deceased husband of the Applicant Shashi, was appointed as a casual worker in the office of the SOP Bulandshahr. He also acquired temporary status on 29th November, 1989 and died in harness on 5th July, 2015.

12. The stand of the Department in this case as well is that services of Ravi Shankar could not be regularised as that of a Group 'D' employee's due to non-availability of vacancies. The stand of the Respondents before the CAT was noted by the CAT in the impugned order as under:

"It is further stated that as per the clarification issued by Director General Posts, New Delhi No.66-9/91-SPB-I dated 30.11.1992 (Annexure A-8), the casual labourers conferred with temporary status and completing three years of service after conferment of such temporary status were allowed to be treated at par with temporary Group 'D' employee for grant of following benefits such as:

I. All kinds of leave admissible to temporary employees.

II. Holidays as admissible to regular employees.

III. Counting of service for the purpose of pension and terminal benefits as in the case of temporary employees appointed on regular basis for those temporary employees (temporary status casual labourers) who are given temporary status and who complete 3 years of service in that status while granting them pension and retirement benefits after their regularization.

Central Government employee's Insurance Scheme

IV. G.P.F.

V. Medical Aid

VI. L.T.C.

VII. All advances admissible to temporary Group 'D' employees.

VIII. Bonus."

5. Since the deceased was not regularised till the time of his death, the retirement benefits as claimed by the applicant are not admissible to her.”

13. Again, before the CAT reliance was placed by Shashi on the decision of the Supreme Court in *Jagrit Mazdoor Union v. MTNL (supra)* as well as the decision dated 23rd December, 2011 in W.P.(C) No. 60272/2009 (*Union of India v. Shyam Lal Shukla*). It was submitted that the Special Leave Petition (SLP) (C) filed by the Union of India against the decision in *Shyam Lal Shukla (supra)* was dismissed. It was argued that it was settled law that “casual employees who have been given status of temporary employees, after rendering three years of continuous service are to be treated as temporary group ‘D’ employees of the DOP and would be entitled to all benefits as are admissible to Group ‘D’ employees on regular basis.”

14. Apart from the above two decisions, reliance before the CAT was also placed on decisions of this Court on 4th November, 2015 in W.P.(C) No. 10382/2015 (*Union of India v. Babita*) and a decision dated 1st March, 2016 in W.P.(C) No.11934/2015 (*Kuntesh v. Union of India*).

15. In its impugned order dated 9th October 2017, the CAT observed that Shashi’s case was supported by the decision of the Ernakulam Bench of the CAT in *Smt. Chitra Babu vs. Union of India*. It was held that the issue was no longer *res integra* and that several decisions had upheld the view expressed by the CAT in *Smt. Chitra Babu (supra)* in which it had been observed as under:

“11. It would be curious to note that whereas the Apex Court

has held that the temporary status employees after three years of service would become entitled to such benefits as are admissible to Group 'D' employees on regular basis, the above order states "From that date they will be entitled to benefits admissible to temporary Group 'D' employees such as:"

12. Be that as it may, the benefits as itemized (as extracted above) are not exhaustive but only illustrative. For, the term 'such as' occurring therein has to be taken to mean more by way of illustration. In this regard, the following decisions of the Apex Court are appropriate to be referred to:

(a) *Sanaboina Satyanarayana v. Govt. of A.P.*, (2003) 10 SCC 78. In this case, while interpreting the term "crimes against women such as Ss. 376 and 354," the Apex Court has interpreted the word –'such as' in the following term:

"When the clause noticed above, in the latter portion referred to two of the provisions of IPC, after the words "such as", it was more by way of illustration of the excepted category of offences relating to crimes against women in general and not with an intention to be exhaustive of the same."

(b) In *Royal Hatcheries (P) Ltd. V. State of A.P.*, 1994 Supp (1) SCC 429, the Apex Court while explaining the term livestock, observed as under

"It is true, the words "such as" indicate that what are mentioned thereafter are only illustrative and not exhaustive."

(Of course, in this case, in addition to the term 'such as' word, 'etc.' has also been used.)

(c) In *Goodyear India Ltd. V. Collector of Customs*, (2000) 10 SCC 489, the Apex Court has observed,

"The words "such as stainless steel, nickel monel, incoloy, hastelloy" in sub-heading (2) are only illustrative of the various metals from which valves can be made but the said description is not exhaustive of the metals.

13. Thus, the benefits itemized in the order dated 30.11.1992 vide Annexure R-4 are only illustrative and not exhaustive. Since the scheme of compassionate appointment is applicable to the government servants, which include regular employees of Group 'D', those who are entitled to such benefits as available to the Group D employees on regular basis, are also entitled to the same. In addition, while defining the term 'Government servant' for the purpose of compassionate appointment, the term clearly spells out the excluded category i.e. "not one working on daily wage or casual or apprentice or ad hoc or contract or reemployment basis." Temporary status employees treated at par with Group D employees are not enlisted in this excluded category."

16. Accordingly, the OA was allowed and the relief prayed for was granted to Shashi in the following terms:

“Hence, I hold that the husband of the applicant who had acquired temporary group ‘D’ status & had rendered more than 3 years service after that, was entitled to all the benefits available to Group 'D' employee on regular basis.”

Facts in W.P. (C) 3565 of 2019

17. The facts of WP (C) No. 3565/2019 are that the Respondent Sunder Singh was initially appointed as a contingency paid ‘Chowkidar’ in the DOP in Agra Division on 14th February, 1979. He was granted temporary status with effect from 29th November, 1989 in the pay scale of Rs.750-940. He served the DOP for 35 years and superannuated on 31st March, 2013.

18. Sunder Singh submitted an application dated 22nd January, 2013 for promotion under the OBC quota. This was however not acceded to. Upon the failure by the Department to grant him pensionary benefits, Sunder Singh submitted a representation dated 7th October, 2013. This was negated by the impugned order dated 21st January, 2014. Sunder Singh accordingly filed an OA seeking reliefs from the CAT. In the said OA, Sunder Singh also sought the quashing of the corrigendum dated 30th December, 2014 which laid down that the word “retired” in the above impugned order dated 21st January, 2014 would read as “disengaged”.

19. By the impugned order dated 28th December, 2018, the CAT allowed the application with a direction to set aside the orders dated 21st January, 2014 and 30th December, 2014. Relying on the decisions in *Shashi v. Union of India* (*supra*) and *Kuntesh v. Union of India* (*supra*) as well as the judgment of the Supreme Court in *Yashwant Hari Katakhar v. Union of India* (1996) 7 SCC 113 a direction was issued to the Petitioners to decide the case of Sunder Singh within three months from the date of the receipt of the order.

20. This Court has heard the submissions of Mr. R. V. Sinha, learned senior standing counsel for the Petitioners and Mr. S. K. Gupta, Mr. G. S. Lobana, Mr. Deepak Verma and Mr. Subhash Chandra, counsel appearing for the Respondents.

Analysis and reasons

21.1 The earliest of the cases involving the issue of regularisation of

temporary Government servants was that of *Yashwant Hari Katakkar v. Union of India* (*supra*). In that case, the Appellant had sought pre-mature retirement from Government service after serving for 18.5 years in two different departments of the Central Government. Although the request for pre-mature retirement could be made only after 20 years, his request was granted and the question then arose whether he was entitled to pensionary benefits.

21.2 The Supreme Court observed that in the facts and circumstances of the case it would be “a travesty of justice, if the Appellant is denied the pensionary benefits simply on the ground that he was not a permanent employee of the Government.” The order of the CAT denying him pensionary reliefs was set aside and a direction was issued to the Government to treat the Appellant as having retired from service after serving 18.5 years i.e. more than 10 years of permanent service, which is necessary for the family pension.

22.1 Closer to the facts of the present case is the decision of the Allahabad High Court in *Union of India v. Shyam Lal Shukla* (*supra*) which involved casual labourers in the DOP. There Respondent No.1 was engaged as ‘Contingency Paid Chowkidar’ who had been employed in the sub-post office in Allahabad in 1982. His initial engagement was in terms of Rule 267 of the Posts and Telegraph Financial Hand Book, Volume-1 Second Edition. Respondent No. 1 contended that his engagement was against a vacant post. By a communication dated 2nd January 1992, Respondent No.1 was informed that he would be treated as “full time C. P. employee of Postal

Department” and had been conferred temporary status with effect from 29th November, 1989. Respondent No. 1 was granted temporary status pursuant to the Casual Labour (Grant of Temporary Status in Regularization) Scheme formulated by the DOP by a communication dated 12th April, 1991 in compliance with the directions issued by the Supreme Court.

22.2 The Allahabad High Court referred to the following portion of the order of the Supreme Court in *Jagrit Mazdoor Union v. MTNL (supra)* pursuant to which the above scheme was formulated:

“On 31.1.1989, when Writ Petition No. 1276 of 1986 came up for hearing before this Court, the following order was made:

“Learned counsel for the petitioners concedes that the regularisation of 21,000 employees in the Department of Telecommunications has been effected but complains that no such proceeding has taken place in respect of the postal employees. He states that there is pressing need for a parity of service conditions including pay, house rent allowance and other allowances between the temporary employees and the regular employees covered by this category. The learned Additional Solicitor General of India assures us that the scheme will be finalised latest by first week of April, 1989 and that complete position will be placed before the Court at that stage

The scheme known as Casual Labourers (Grant of Temporary Status in Regularisation) Scheme has been formulated and put into operation from 1.10.1989 and a copy thereof has been placed for our consideration. We find that the scheme is comprehensive and apart from provision for conferment of temporary status, it also specifies the benefits available on conferment of such status. Counsel for the respondent- Nigams

have told us that the scheme will be given full effect and other benefits contemplated by the scheme shall be worked out. In these circumstances, no further specific direction is necessary in the two applications relating to the two Nigams of Bombay and Delhi except calling upon the respondents to implement every term of the scheme at an early date.”

22.3 Following the judgment in *Jagrit Mazdoor* bonus was granted to such of the casual labourers who had acquired temporary status on par with Group ‘D’ employees by an office order dated 30th November, 1992 of the DOP which reads thus:

“Vide this office circular letter No.45-95/87-SPB-I dated 12.4.1991, a scheme for giving temporary status to casual labourers fulfilling certain conditions was circulated.

In their judgment dated 29.11.1989, the Hon’ble Supreme Court have held that after rendering three years of continuous service with temporary status, the casual labourers shall be treated at par with temporary Group ‘D’ employees of the Department of Posts and would thereby be entitled to such benefits as are admissible to Group D employees on regular basis.

In compliance with the above said directive of the Hon’ble Supreme Court it has been decided that the casual labourers of this Department conferred with temporary status 95/87-SPB-I dated 12.4.1991 be treated at par with temporary Group ‘D’ employees with effect from date they complete three years of service in the newly acquired temporary status as per the above said scheme. From that date they will be entitled to benefits admissible to temporary Group ‘D’ employees such as:

1. All kinds of leave admissible to temporary employees.
2. Holidays as admissible to regular employees.
3. Counting of service for the purpose of pension and terminal benefits as in the case of temporary employees appointed on

regular basis for those temporary employees who are given temporary status and who complete 3 years of service in that status while granting them pension and retirement benefits after their regularization.

4. Central Government Employees Insurance Scheme.

5. G.P.F.

6. Medical Aid

7. L.T.C.

8. All advances admissible to temporary Group D employees.

9. Bonus

Further action may be taken accordingly and proper service record of such employees may also be maintained.”

22.4 In *Shyam Lal Shukla (supra)* after discussing the scheme for grant of temporary status to casual labour the Allahabad High Court also discussed Rule 154 (a) of the Post and Telegraphs Ministerial Manual Establishment which reads thus:

"154.(a) Selected categories of whole time contingency paid staff, such as Sweepers, Bhisties, Chowkidars, Chobdars, Malis or Gardeners, Khalassis and such other categories as are expected to work side by side with regular employees or with employees in work charged establishment, should, for the present, be brought on to regular establishments of which they form adjuncts and should be treated as "regular employees."

22.5 The Allahabad High Court then concluded that the above Rule “clearly spells out its essential purpose, to give pensionary benefit to certain class of employees as ‘regular employee’, notwithstanding the fact that no formal order of regularization was passed.”

22.6 It was noticed that the decision of the Supreme Court in *Secretary State*

of Karnataka v. Umadevi AIR 2006 SCC 1806 would have no application since in the present case the scheme had been framed by the Postal Department and that scheme had been approved by the Supreme Court. Consequently, the Allahabad High Court upheld the order of the CAT, Allahabad Bench directing that Shyam Lal Shukla would be treated as a regular employee with entitlement to all post-retiral benefits as per the statutory rules in force, together with 9% annual interest from the date of the amounts becoming due.

22.7 The SLP(C) (CC No. 12664/2012) filed by the Union of India against the above decision of the Allahabad High Court (*Union of India and Shyam Lal Shukla*) was dismissed by the Supreme Court on 6th August, 2012.

23. Following the above decision in *Shyam Lal Shukla*, the Allahabad High Court by a decision dated 1st February, 2016 in Service Bench No.1331/2013 (*Senior Superintendent of Post Faizabad v. Ram Pratap Yadav*) affirmed the order dated 20th May, 2013 of the CAT Lucknow Bench.

24. As far as this Court is concerned, the same scheme came up for discussion in the order dated 1st March, 2016 of this Court in W.P.(C) No.11934/2015 (*Kuntesh v. Union of India*). There, a casual labourer had died in harness and the legal representatives sought compassionate appointment. The Court referred to an earlier decision dated 4th November, 2015 in W.P.(C) No. 10382/2015 (*Union of India v. Babita*). A direction in *Kuntesh (supra)* was issued to the Respondents to consider the Petitioner

No. 2 therein for compassionate appointment “under the relevant scheme” and the plea for such appointment would not be rejected merely because the deceased was not a regular employee.

25. In *Sharda Devi v. Union of India* (*supra*) this Court granted family pension to the Petitioner whose husband, a casual labourer in the DOP, had died while in service. By then he had put in 28 years of service, of which 18 years was as a temporary status Group ‘D’ employee. The Supreme Court in *Prabhawati Devi v. Union of India* (1996) 32 ATC 515 upheld the claim of the widow of a temporary Railway servant to family pension.

26. Mr. R. V. Sinha referred to the decision dated 18th September, 2019 in WP(C) No. 10013/2019 (*Union of India v. Kuntesh*) whereby this Court affirmed an order dated 31st January, 2018 of the CAT granting family pension to the Respondent whose husband had died while in service. It was submitted that the CAT exceeded jurisdiction in granting relief to the Respondents and that its decision was contrary to the decision in *Union of India v. Rakesh Kumar 2001 (4) SCC 309*.

27. The issue in *Rakesh Kumar* (*supra*) was whether the members of the Border Security Force (BSF) whose resignation under Rule 19 of the BSF Rules, 1969 after serving 10 years but less than 20 years had been accepted, were entitled to pensionary benefits? The Supreme Court discussed the meaning of the expression ‘qualifying service’ under Rule 3(q) of the CCS (Pension) Rules and has referred to Rule 49 which made it clear that if a Government servant retired before completing qualifying service of 10

years, he would not get pension. In the present case however, we are concerned with Rule 10 which has already been extracted hereinbefore. It was made clear that where all temporary Government servants also dies while in service his LR would be entitled to family pension. The said decision is therefore unhelpful in the case of the Petitioners.

28. The decision in *Umadevi* is also not helpful to the Petitioners for the reason that there is a scheme which has been formulated in the present case for granting Group 'D' status to even casual labour.

29. Reference was then made by Mr. Sinha to the decision of the Supreme Court in *DCS Negi v. Union of India (2018) 16 SCC 721*. There the issue involved the Indian Defence Accounts Service which again turned on its own facts. The question turned on limitation and it was held that without advertent to that question, the CAT had granted relief. The Court fails to appreciate how the said judgment could be of assistance to the Petitioners in the present case.

30. Here the cause of action for filing the cases before the CAT has been explained in sufficient detail. In Sunder Singh's case, it is only after his representation was turned down that he approached the CAT. As far as as Munnii Devi and Shashi are concerned, it must be noticed here that by an order dated 17th July, 2017 in WP(C) No. 5907/2017 *Union of India v. Munnii Devi* this Court ordered for limiting the arrears of family pension to three years prior to the date of her preferring the original application before the CAT.

31. Another question raised is whether there are in fact vacancies against which Sunder Singh and the deceased husbands of Munni Devi and Shashi respectively could have been accommodated? In this regard, it requires to be noticed that the following detailed order was passed by this Court on 15th October, 2018 in Munni Devi's case:

“1. On 17.07.2017, when the present petition was listed for admission, a detailed order was passed wherein the petitioner/Union of India was directed to file a better affidavit giving full disclosure of the sanctioned strength of Group 'D' cadre in Bulandshehar Division as also in the other units since 1991; the number of persons occupying the regular vacancies on the year-wise basis from 1991 to 2004, keeping view the fact that the respondent's husband had expired in September, 2004 and the number of persons holding temporary status who were regularized during the said period.

2. We may note that even as per the circular dated 12.04.1991 relied on by learned counsel for the petitioner/Union of India (at page 106) which is on the subject of grant of temporary status and regularization to casual labourers, it has been stipulated that after rendering three years continuous service after conferment of temporary status, the casual labourers would be treated at par with temporary Group 'D' employees not only for the purposes of contribution to General Provident, they would also be governed by the same conditions as would be applicable to temporary Group 'D' employees. It is an undisputed position that the deceased husband of the respondent had joined as a casual worker and had acquired temporary status on 29.11.1989, whereafter, he had served the department for nearly 15 years, before he died in harness on 23.09.2004.

3. In compliance of the order dated 17.07.2017, the petitioners had filed an affidavit on 06.01.2018, which was perused on 06.02.2018, when it was noticed that they had elected to describe Bulandshehar as a 'Region'. Learned counsel for the petitioners had conceded that Bulandshehar ought to have been

described as a division, under which, there are several units.

4. In view of the fact that the aforesaid affidavit was deficient in information, the petitioners were permitted to file a fresh affidavit which has been filed under index dated 26 June, 2018, which gives details of the vacancy position in various divisions including Bulandshehar, Agra, Aligarh, Mathura, Jhansi, Etah, Etawah and Mainpuri.

5. On a bare perusal of the aforesaid affidavit, it is clear that several vacancies were available in the Aligarh Division in the year 2002, 2003 and 2004. Same is the position with regard to the vacancies in Mathura, Etah, Etawah, Jhansi and Mainpuri. This being the position, we have requested learned counsel for the petitioner to explain how the list of employees with temporary status was being operated by the petitioners between the year 1991 till 2004 for regularization and why were the vacancies that had admittedly arisen in each division, not been filled up.

6. Learned counsel for the petitioner states that he may be permitted to obtain further instructions from the department. Last opportunity is granted to learned counsel for the petitioner to take necessary instructions.

7. List on 29.01.2019.”

32. Clearly, therefore, despite the availability of vacancies, Sunder Singh and the deceased husbands of Munni Devi and Shashi respectively, were not regularised against such vacancies. Consequently, the Court finds no reason whatsoever to interfere with the impugned orders of the CAT.

Conclusion

33. While the Respondents in WP(C) No. 5907/2017 and 1767/2018 would be entitled to the reliefs as granted by the CAT including family pension, the

arrears are confined to a period of three years prior to their filing their respective OAs before the CAT. The impugned orders of the CAT in their respective OAs stand modified accordingly. As far as Sunder Singh is concerned, he has served the full pensionable service and his petition before the CAT was also not belated. Therefore, in his case the impugned order of the CAT is affirmed as such.

34. The consequential orders be passed by the Petitioners and this order be implemented not later than twelve weeks from today failing which the Petitioners would be liable to pay each of the Respondents 6% simple interest p.a. on the sums due for the period of delay.

35. The petitions and applications are disposed of in the above terms with costs of Rs.10,000/- in each petition to be paid by the Petitioners to the Respondents within twelve weeks.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 06, 2020

Mw