

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**ORIGINAL APPLICATION NO. 060/00267/2018 &
M.A. NO. 060/00366/2018**

Chandigarh, this the 10th day of January, 2019

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Sundram s/o Sh. Pirumal aged 64 years, retired Daily Wage Worker, O/o Estate Officer, U.T. Chandigarh, r/o House NO. 3986, Mauli Jagran Complex, U.T.. Chandigarh 'Group-D'.

....APPLICANT

(By Advocate: Shri Barjesh Mittal)

VERSUS

1. Union Territory, Chandigarh Administration through its Secretary, Engineering Department, U.T. Civil Secretariat, Sector 9-D, Chandigarh.
2. Chief Engineer, Union Territory, Chandigarh Administration, U.T. Civil Secretariat, Sector 9, Chandigarh.
3. Deputy Commissioner, U.T. Chandigarh Administration, Estate Office Building, Sector 17, Chandigarh.
4. Estate Officer, U.T. Chandigarh, Estate Office Building, Sector 17, Chandigarh.

....RESPONDENTS

(By Advocate: Ms. Jyotika proxy for Mr. Rajesh Punj, Advocate)

ORDER (oral)

SANJEEV KAUSHIK, MEMBER (J)

The present Original Application (O.A.) has been filed by the applicant seeking following relief:-

“(ii) That respondents be directed to consider the case of the applicant for grant of pension and other consequential retiral benefits, by treating him as deemed regularized, as permissible under the rules in view of and in terms of the judgment dated 03.04.2014 (A-1) passed by Hon'ble Supreme Court, in terms of

judgment passed by this Hon'ble Tribunal in Babli Devi's case, upheld by Hon'ble High Court and Hon'ble Supreme Court of India Annexure A-2 as well as notings dated 22.09.2014 and policy/scheme for regularization dated 13.03.2015 (A-3) and clarification dated 02.11.2016/09.11.2016 (A-4) and direct the respondents to grant family pension/retiral benefits w.e.f. 1.09.2013 with all other consequential benefits in terms of arrears of family pension and retiral benefits with interest @ 18% per annum in the interest of justice."

2. Alongwith the O.A. the applicant has also filed M.A. No. 060/00366/2018 under Section 21(3) of the Administrative Tribunals Act, 1985 seeking condonation of delay of 185 days in filing the accompanying O.A.

3. This Tribunal at the first instance issued notice to respondents in the M.A. for condonation of delay to which the respondents have filed a reply. Reply on merits of the case has also been filed and as such the pleadings are complete.

4. We have heard the learned counsel for the parties and perused the material on record.

5. Mr. Barjesh Mittal, learned counsel appearing on behalf of applicant vehemently argued that the case of the applicant is squarely covered by a decision rendered by the Hon'ble Supreme Court in Civil Appeal NO. 6779 of 209 – **U.T. Chandigarh & Another vs Sampat & Ors.** decided on 3.4.2014 where their Lordships have recorded a finding that those who were working with the Chandigarh Administration, were entitled for regularization of their services and consequential benefits arising therefrom. It has also been observed that those applicants, who had retired thereafter, will get pensionary benefits. He submitted

that in furtherance to this judgment the respondents have also issued a policy decision vide Annexure A-3 on 13.3.2015 wherein it has been decided that the work-charged/daily wage employees working prior to 1992 should be given the benefit as per CPWD Manual which includes pension also. Learned counsel for the applicant submits that since the applicant had been working as daily wage basis since 9.9.1982 with the Chandigarh Administration and had retired on 31.8.2013, therefore, in terms of the above stated policy decision he was entitled for pensionary benefits.

6. On the application for condonation of delay he submitted that being a continuing recurring cause of action there is no delay in filing the O.A. as a decision which comes subsequently, in favour of a litigant affords a new cause of action and, therefore, there cannot be said to be a delay in approaching the court of law for redressal of his grievance.

7. Ms. Jyotika, Advocate appearing vice Mr. Rajesh Punj, learned counsel for the respondents vehemently opposed the prayer of learned counsel for applicant and submitted that this M.A. be dismissed as the applicant approached this Court after more than 5 years for redressal of his grievance.

8. We have considered the rival submissions made on behalf of respective parties and are in agreement with the submissions made at the hands of the applicant that in terms of the judgment of the Hon'ble Supreme Court in the case of Sampat Singh (supra) all the persons, who were working with the Chandigarh Administration on

daily wage basis, and those who have retired on the date of pronouncement of the judgment, were entitled for regularization of their service alongwith all consequential benefits. The observations made by their Lordships in the said judgments are reproduced for ready reference:-

“ However, we make it clear that if no post is available in the regular establishment, the employees may continued in the work charged establishment but they will be entitled to full salary which they are already drawing including dearness allowance and the pensionary benefits to which they are entitled under the ‘CPWD work charged Establishment including the gratuity and pension which they are entitled as per Rules. Widows shall get the family pension.”

In furtherance thereto, the respondents have also issued a policy decision dated 13.3.2015 (Annexure A-3) wherein it has been held as under:-

- “ (i) In the light of the judgment of the Hon’ble Supreme Court of India in the case of U.T. Chandigarh & Anr. Vs. Sampat & Ors. the work-charged/daily wage employees working prior to 1992 should be given the benefit as per CPWD Manual which includes pension also.
- (ii) The employees should be regularized to the extent of vacancies in the order of their length of service.”

Reading of above extracted part of policy decision makes it clear that the case of the applicant is covered by the said policy decision and judgment of Hon’ble Supreme Court. Therefore, we allow the M.A. for condonation of delay.

9. Consequently in view of the above discussion that the issue raised in this case is covered on all fours with the indicated decision, the O.A. is also allowed with a direction to respondents to consider the claim of applicant for his regularization and grant him

consequential benefits as expeditiously as possible. The O.A. stands disposed of accordingly. No costs.

(P.GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 10 .01.2019
`SK'

