



LABOUR

Pension Is a Right, Not a Charity, Widow Entitled to Family Pension Despite Husband's "Temporary" Appointment After 24-Year Delay

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Introduction

The Rajasthan High Court has delivered a noteworthy judgment safeguarding the rights of dependents of government employees. In a case concerning denial of family pension to a widow on the ground that her late husband was appointed “purely on a temporary basis,” the Court clarified that **temporary service, if rendered for more than one year following due selection, carries pensionary entitlements at par with permanent service**. Emphasizing that pension is a statutory right and not a matter of government charity, the Court directed the authorities to release family pension, death gratuity, and arrears with interest, even though the claim was raised after 24 years.

Table of contents

- [Introduction](#)
- [Background of the Case](#)
- [Key Issues](#)
- [Court Findings](#)
- [Judgment](#)
- [Author's View](#)

Background of the Case

The petitioner, **Smt. Mishri Devi[1]**, lost her husband, **Late Shri Dayanand**, who was appointed as a **Lower Division Clerk (LDC)** in the year 1989. His appointment was made after undergoing a regular selection process through a duly constituted committee, and he was placed in the prescribed pay scale of ₹800–1680. Although his appointment letter mentioned that the post was “purely temporary,” the recruitment procedure followed was identical to that of a regular appointment.

Unfortunately, after serving for a little over one year, Shri Dayanand passed away on **29 October 1990**. Following his death, the petitioner was offered a **compassionate appointment** under the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants Rules, 1975. This itself indicated that the State had treated Shri Dayanand as a substantive appointee.

However, when the petitioner sought **family pension and death gratuity**, the authorities rejected her claim, reasoning that since her husband’s appointment was “temporary,” he was not entitled to pensionary benefits. Even though her husband’s service fell outside the excluded categories (such as contingency-paid, work-charged, or casual labour), the benefits were withheld.

After years of pursuing the matter without success, Smt. Mishri Devi approached the Rajasthan High Court in **2014**, nearly 24 years after her husband’s death, seeking judicial intervention to secure her rightful entitlements.

Key Issues

1. **Status of Appointment** – Whether the petitioner’s husband, though described as a “temporary appointee,” could be treated as a substantive employee for the purpose of pensionary benefits.
2. **Applicability of Rule 268A, Rajasthan Service Rules, 1951** – Whether dependents of temporary employees, who have served for more than one year, are entitled to family pension and other retiral benefits.
3. **Exclusion Categories** – Whether the deceased employee fell within the excluded categories (contingency-paid staff, work-charged employees, casual labour, or contract officers) under Rule 268A.
4. **Delay and Laches** – Whether the writ petition filed after nearly 24 years of the employee’s death could be barred by limitation or whether pension, being a continuing right, could still be claimed.
5. **Administrative Accountability** – Whether the denial of benefits by the State, despite clear provisions, warranted payment of arrears with interest.

Court Findings

The Rajasthan High Court made the following key observations while deciding the matter:

1. **Entitlement under Rule 268A** – Rule 268A of the Rajasthan Service Rules, 1951 makes family pension admissible to dependents of government servants appointed on either a **temporary or permanent basis**, provided the employee had completed at least one year of service. The only exclusions are contingency-paid workers, work-charged staff, casual labour, and contract officers. Since the petitioner’s husband did not fall within these categories, the denial of pension was legally untenable.
2. **Nature of Appointment** – Although the appointment letter described Shri Dayanand’s service as “purely temporary,” the Court held that the selection process followed was identical to that of a substantive post. Thus, his dependents could not be deprived of pensionary benefits on the basis of terminology used in the appointment order.
3. **Delay and Laches** – The Court rejected the State’s objection that the claim was barred due to a delay of 24 years. It reiterated that pension is not a government bounty but a vested right, and therefore delay cannot be used to defeat lawful entitlements.
4. **Precedent Applied** – The Court relied on the Division Bench decision in Union of India v. Smt. Kaushlaya^[2] (2006), which had extended family pension benefits to dependents of temporary employees, thereby reinforcing the petitioner’s claim.
5. **Relief Granted** – The Court directed the authorities to release family pension, death gratuity, and other post-retiral benefits to the petitioner within three months, along with arrears and **interest at 9% per annum**, holding the delay attributable to the respondents as unjustified.

Judgment

The Rajasthan High Court allowed the writ petition filed by **Smt. Mishri Devi** and held that she was entitled to receive family pension and other retiral benefits despite her husband’s appointment being described as “temporary.” The Court directed the respondents to:

- **Sanction and release** family pension, death gratuity, and other post-retiral benefits in accordance with the applicable rules.
- **Disburse arrears of family pension** within three months from the date of receipt of the judgment.
- Pay **interest at 9% per annum** on the arrears, the delay being solely attributable to the respondents’ unjustified denial of benefits.

The Court clarified that the terminology of “temporary appointment” cannot override the mandate of **Rule 268A of the Rajasthan Service Rules, 1951**, and that **pension is a statutory right, not a discretionary concession**.

Author’s View

This judgment is a welcome reaffirmation of the welfare-oriented approach that should guide pension jurisprudence in India. By clarifying that the label of “temporary” service cannot deprive dependents of their rightful entitlements, the Court has effectively closed a loophole often used by authorities to deny benefits.

The ruling also reflects judicial sensitivity toward widows and dependents, who are the most vulnerable after the loss of a breadwinner. The emphasis on pension as a **statutory right and** continuing obligation ensures that such families are not left destitute due to rigid or unfair administrative interpretations.

Importantly, the imposition of 9% interest on arrears demonstrates that State authorities must act with responsibility and urgency when it comes to social security benefits. It sends a strong message that bureaucratic delay or wrongful denial will not be tolerated. In the broader sense, this decision strengthens the principle of social justice within service law, upholding the dignity of government employees and their families, even when service was short-lived or described as temporary.

For more details, write to us at: contact@indialaw.in

[1] S. B. Civil Writ Petition No. 4901/2014

[2] 2006 (4) RDD 2389 (Raj)(DB)

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