

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

(RESERVED)

Hearing through video conferencing

Original Application No. 549/2025

Reserved on:- 27.11.2025

Pronounced on: - 05.02.2026



HON'BLE MR. RAJINDER SINGH DOGRA, MEMBER (J)

SHARIFA BEGUM, Age 55 years W/o Late Mohd. Shafi R/o Shikari,
Tehsil Chassana, District Reasi-182315

...Applicant

(By Advocate: - Mr. Arshad Hussain)

VERSUS

1. U.T of J&K Through Commissioner/Secretary to Govt., School Education Department, Jammu-180001
2. Senior Accounts Officer (PNR-III), In the Office of Principal Accountant General, (A&E), Shakti Nagar, Jammu-180001
3. Chief Education Officer) Reasi-182315.
4. Zonal Education Officer, Chassana, Reasi-182315

5. NASEEM AKHTER W/o Mohd. Shafi R/o Shikari, Tehsil
Chassana, District Reasi-182315

...Respondents.

(By Advocate: - Mr. Sudesh Magotra, Id. AAG, Mr. Suman Sudan)



ORDER

Per: - Rajinder Singh Dogra, Judicial Member

1. The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs: -



“In view the submissions made hereinabove and those to be urged at the time of hearing of this application, it is therefore prayed that the Hon'ble Tribunal may very kindly be pleased to:-

- a. Direct the respondents to finalize and sanction the family pension benefits and gratuity and other benefits arising out of the service of the deceased husband.*
- b. The Hon'ble Tribunal may in the facts and circumstances of the case be pleased to grant any other additional/alternate relief in favour of the petitioner in giving facts and circumstances of the case.*

2. The facts of the case as averred by the applicant in her pleadings, are as follows: -



- a) The applicant, Smt. Sharifa Begum, is a citizen of India and a permanent resident of the Union Territory of Jammu and Kashmir. She is the legally wedded widow of Late Mohd. Shafi, who was serving as a Teacher in the School Education Department and was last posted at Government High School, Shikari, Tehsil Chassana, District Reasi. Late Mohd. Shafi entered government service on 02.04.1985 and continued to serve the department without any adverse record till his death on 11.02.2023, thereby rendering more than 37 years of continuous and satisfactory service.
- b) It is averred that Late Mohd. Shafi is survived by two wives, namely the applicant herein and respondent No.5, Smt. Naseem Akhter, as well as one son born from the wedlock with the applicant. A legal heir certificate dated 11.03.2023 has been issued by the competent authority, namely the Tehsildar,

Chassana, recognising the applicant, her son, and respondent No.5 as legal heirs of the deceased employee.



- c) The applicant submits that she is the first legally wedded wife of Late Mohd. Shafi and was entirely dependent upon him during his lifetime. After his demise, she applied for grant of family pension, gratuity, and other retiral benefits arising out of the service rendered by her deceased husband. It is further submitted that respondent No.5 also staked a claim for family pension.
- d) During scrutiny of the pension papers, the Office of the Principal Accountant General (A&E), Jammu, noticed that the deceased employee had two surviving spouses and accordingly sought clarification from the Headmaster, Government High School, Shikari, as to whether Late Mohd. Shafi had obtained prior permission from the competent authority under Rule 22(1) of the Jammu and Kashmir Employees (Conduct) Rules, 1971, for contracting a second marriage. This communication was issued vide letter dated 08.07.2024.



- e) In response thereto, the Headmaster, Government High School, Shikari, vide communication dated 31.08.2024, clarified that Late Mohd. Shafi had solemnized a second marriage without obtaining the mandatory prior permission from the competent authority. The Headmaster further requested that the family pension be sanctioned in favour of the eligible wife, i.e., the applicant, so that the family of the deceased employee does not suffer undue hardship.
- f) The applicant asserts that all requisite documents and formalities demanded by the department for processing the pension case were duly submitted. A No Objection Certificate was also issued by the Headmaster, Government High School, Shikari, certifying that there were no departmental dues or liabilities outstanding against the deceased employee.
- g) Despite the above, the respondents have not finalized or sanctioned the family pension and gratuity in favour of the applicant. The applicant contends that the delay is arbitrary, mechanical, and unjustified, particularly when she is the legally



wedded first wife and the sole dependent, whereas respondent No.5 is herself a regular government employee drawing a substantial salary and was never dependent upon the deceased employee.

h) Aggrieved by the inaction and prolonged withholding of pensionary benefits, the applicant has approached this Tribunal seeking a direction to the respondents to release the family pension, gratuity, and all consequential benefits arising from the service of her deceased husband.

3. The respondents have filed their written statement wherein they have averred as follows: -

a) The respondents, while filing their written statement, have raised preliminary objections to the maintainability of the Original Application, contending that the applicant has not approached the Tribunal with clean hands and has allegedly suppressed material facts. It is further averred that the Original Application is not in conformity with the prescribed format

under the Administrative Tribunals Act and the rules framed thereunder. The respondents have also reserved their right to file an additional affidavit, if required.



- b) On facts, it is submitted that upon the death of Late Mohd. Shafi, Teacher, Government High School, Shikari, the family pension case was received in the office of the Principal Accountant General (A&E), Jammu, from the Drawing and Disbursing Officer, namely the Headmaster, Government High School, Shikari, vide letter dated 22.04.2024. The pension papers, including Forms 3 and 7, disclosed that the deceased employee was survived by two wives, namely the applicant and respondent No.5.
- c) During scrutiny, it was noticed that the pension case involved a claim by a second wife. Accordingly, the case was returned to the Pension Sanctioning Authority vide communication dated 08.07.2024, inviting attention to Note (2) below Rule 22(a) of Schedule XV of the Jammu and Kashmir Civil Services Regulations, Volume II, and the Jammu and Kashmir Family



Pension-cum-Gratuity Rules, 1964. As per the said provisions, family pension in favour of a second wife is admissible only if the deceased employee had obtained prior permission from the competent authority for contracting the second marriage after 05.02.1971.

- d) It is submitted that in the present case, the deceased employee had contracted a second marriage without obtaining such prior permission. The Pension Sanctioning Authority was therefore required to clarify and decide the eligibility of the beneficiary in accordance with the applicable rules. In response to the communication of the Accountant General, the Headmaster, Government High School, Shikari, vide letter dated 31.08.2024, furnished the requisite information regarding non-obtaining of permission for the second marriage.
- e) The respondents submit that the office of the Accountant General is bound to authorize family pension strictly in accordance with the statutory rules and cannot act dehors the same. It is further submitted that the role of the Accountant

General is limited to authorization, and it is for the Pension Sanctioning Authority to determine the eligible beneficiary in accordance with the rules governing family pension.



- f) With regard to the grounds urged by the applicant, it is contended that the same are repetitive and misconceived. The respondents deny that there has been any arbitrariness or illegality on their part and assert that the pension case has been processed strictly in accordance with the governing rules and procedures. It is reiterated that the delay, if any, is attributable to the necessity of compliance with statutory requirements relating to second marriage and determination of eligibility.
- g) The respondents further contend that no fundamental, constitutional, or statutory right of the applicant has been violated and that the Original Application raises disputed questions of fact which cannot be adjudicated in summary proceedings. On these grounds, the respondents pray for dismissal of the Original Application.



4. Heard learned counsel for the parties and perused the pleadings made by them.
5. The short but significant issue which arises for determination in the present Original Application is as to whether, in the facts and circumstances of the case, the applicant, being the first legally wedded wife of the deceased government employee, is entitled to family pension and other retiral benefits to the exclusion of respondent No.5, who claims as the second wife.
6. The factual matrix is largely undisputed. Late Mohd. Shafi served the School Education Department as a Teacher for more than 37 years with an unblemished service record and died in harness on 11.02.2023. The applicant is admittedly his first legally wedded wife. It is also not in dispute that the deceased employee contracted a second marriage with respondent No.5 during the subsistence of the first marriage and that such second marriage was solemnized without obtaining prior permission from the competent authority as mandatorily required under Rule 22(1) of the Jammu and Kashmir Employees (Conduct) Rules, 1971.



7. The record further reveals that during scrutiny of the family pension case, the Office of the Principal Accountant General (A&E), Jammu, specifically sought clarification as to whether such permission had been granted. In response, the Drawing and Disbursing Officer categorically clarified that no such permission had ever been obtained by the deceased employee. This factual position has not been controverted by respondent No.5 by producing any document evidencing prior sanction of the competent authority.

8. The legal position on the issue is equally clear and admits of no ambiguity. Rule 22(1) of the Jammu and Kashmir Employees (Conduct) Rules, 1971, prohibits a government servant from contracting a second marriage during the lifetime of the first spouse without prior permission of the Government. The pensionary consequences flowing from such conduct are further governed by the Jammu and Kashmir Family Pension-cum-Gratuity Rules, 1964 read with Schedule XV of the Jammu and Kashmir Civil Services Regulations, Volume-II, which unequivocally stipulate that where a second marriage has been contracted after 05.02.1971 without prior

permission, the second wife does not acquire eligibility for family pension.



9. Family pension is not a bounty but a statutory right intended to provide immediate succour to the dependent family members of a deceased employee. The rules consciously protect the rights of the legally wedded spouse and do not extend such benefit to a relationship which is in clear violation of service conduct rules. Any other interpretation would amount to legitimizing an act which the service rules expressly prohibit and penalize.
10. The contention advanced on behalf of the respondents that the matter involves disputed questions of fact is wholly misconceived. The foundational facts, namely the existence of two marriages and the absence of permission for the second marriage, stand admitted on record. Once these facts are established, the legal consequence flows automatically under the statutory rules, leaving no discretion with the authorities.



11. Equally significant is the equitable dimension of the matter. The applicant is a widow with no independent source of income and was wholly dependent upon the deceased employee. On the other hand, respondent No.5 is herself a regular government employee drawing a substantial salary and was never dependent upon the deceased for sustenance. Denial of family pension to the applicant in such circumstances would defeat both the letter and spirit of the pension rules and would amount to manifest arbitrariness.
12. The prolonged withholding of family pension and gratuity on the pretext of inter se claims, despite clear statutory guidance, cannot be approved. Administrative authorities are expected to act with promptitude and sensitivity in matters relating to pension, which constitutes a vital post-retiral social security measure.
13. In view of the above discussion, this Tribunal holds that the applicant, being the first legally wedded wife of Late Mohd. Shafi, is the sole person entitled to family pension and other consequential retiral benefits arising out of his service. Respondent No.5, having no legal

entitlement under the applicable rules, cannot be treated as a beneficiary for the purpose of family pension.



14. Accordingly, the Original Application is allowed. The respondents are directed to finalize and sanction family pension, gratuity, and all other admissible retiral benefits in favour of the applicant strictly in accordance with the rules, within a period of 12 weeks from the date of receipt of a copy of this order. Any arrears found due shall also be released within the aforesaid period. The respondents shall ensure that no further delay is caused in implementation of this order.
15. No order as to costs.

(RAJINDER SINGH DOGRA)
Judicial Member

/harshit /