RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Civil Writ Petition No. 8169/2015

CNR: RJHC010688442015 | URN: CW / 18919U / 2015

Smt. Mohani Devi W/o Late Heeera Ram, Helper-II, Aged about 61 years, Resident of Khunkhuna Station, Panchayat Samiti & Tehsil Deedwana, District-Nagaur.

----Petitioner

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Versus

1. The State of Rajasthan through its Secretary (Energy) & Chairman & Managing Director, Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Vidyut Bhawan, Jyoti Nagar, Jaipur-302005.
2. The Deputy Secretary (Pension), Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer-305004.
3. Ajmer Vidyut Vitran Nigam Ltd., through its Deputy Secretary (Admn. & Personnel), Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer-305004.
4. The Assistant Engineer (Distribution), Ajmer Vidyut Vitran Nigam Ltd., Block Deedwana, District Nagaur.

----Respondents

For Petitioner(s)	:	Mr. G.R. Punia, Senior Advocate Mr. Madan Beniwal
For Respondent(s)	:	Mr. Vikram Choudhary

HON'BLE MR. JUSTICE BIPIN GUPTA

Order

Date of hearing and conclusion of arguments	15.10.2026
Date on which the judgment was reserved	15.10.2026
Whether the full judgment or only the operative part is pronounced	Full Judgment
Date of pronouncement	31.10.2026

1. The present writ petition has been instituted seeking the following reliefs:

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> "a) by an appropriate writ, order or direction, be pleased to direct the respondents to grant the retiral benefits, arrears of pension and family pension for which the petitioner is eligible and entitled and disburse the same to her with all consequential benefits with interest of 24% per annum without any further delay.
>
> b) any other appropriate order which is deemed just and proper in the facts and circumstances of the case may kindly be also passed; and
>
> c) the petitioner may kindly be allowed the cost of the writ petition."

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2. Brief Facts of the Case are that the husband of the petitioner, Late Shri Heera Ram, was substantively appointed to the post of Helper-II in the Rajasthan State Electricity Board, Government of Rajasthan (hereinafter referred to as "the RSEB"), vide appointment order dated 01.10.1971. He joined the service pursuant to the said appointment and continued to discharge his duties. His services were regularized with effect from the date of his initial appointment and he was accorded permanent status vide order dated 01.04.1974. During his service tenure, he was granted annual grade increments and other admissible service benefits in accordance with the applicable rules.

2.1 It is averred that Late Shri Heera Ram had completed more than twenty years of service when he suffered an electric shock in the year 1992, which adversely affected his mental health. After a prolonged illness, he passed away on 07.06.2001.

2.2 Following the demise of her husband, the petitioner approached the respondent authorities seeking the release of the admissible service dues and retiral benefits, including family pension and other consequential benefits. However, despite repeated requests and representations, the respondents did not

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release the said benefits. It is the petitioner's case that the continued withholding of such benefits has caused her considerable financial hardship.

2.3 It is pertinent to mention here that son of petitioner Mr. Motaram applied for Compassionate appointment to the post of Helper-II under the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants Rules, 1996 (hereinafter referred to as the 'Rules of 1996'). However, the respondent No.4 rejected the said application vide the Communication dated 09.06.2014 informing that the application for compassionate appointment was filed much belatedly, therefore his appointment was not possible as per rules.

2.4 It is further stated that the respondent department, vide order dated 21.07.2014, released the final payment of General Provident Fund (GPF) amounting to Rs.1,22,685/-, which was credited to the petitioner's bank account. However, the remaining retiral benefits, including family pension and other admissible dues, were not released.

2.5 The petitioner thereafter served a legal notice dated 04.08.2014 upon the respondents, seeking payment of the outstanding retiral benefits, pensionary dues, arrears and family pension. In response thereto, respondent No. 1, vide communication dated 22.08.2014, directed respondent Nos. 2 and 3 to furnish a factual report regarding the grievances raised in the legal notice.

2.6 It is also averred that the respondent department issued a circular dated 01.06.2015 emphasizing the timely disbursement of

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retiral benefits to its employees. Nevertheless, according to the petitioner, the respondents failed to release the remaining admissible benefits or grant family pension despite the aforesaid correspondence and the petitioner's repeated requests.

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2.7 Hence, aggrieved by the continued non-payment of the claimed retiral benefits and family pension, the petitioner has approached this Court by way of the present writ petition under Article 226 of the Constitution of India, seeking appropriate directions to the respondents for the release of the admissible pension benefits, family pension, arrears and other consequential benefits in accordance with law.

3. Learned senior counsel for the petitioner submitted that the respondents have failed to take appropriate action on the repeated requests, representations and correspondence made by the petitioner for the release of the admissible retiral and pension benefits. It was contended that such inaction on the part of the respondents is arbitrary and unjustified, resulting in the denial of the petitioner's legitimate entitlements and adversely affecting her right to live with dignity. Learned senior counsel further submitted that the petitioner, a 61-year-old widow, has been compelled to pursue her legitimate claim for family pension, despite repeated approaches to the respondent authorities.

3.1 Learned senior counsel further submitted that although the respondent department released the final payment of General Provident Fund (GPF) amounting to Rs. 1,22,685/- vide order dated 21.07.2014, the remaining admissible retiral and pension benefits, including family pension, have not been released to the

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petitioner without any justifiable reason. It was contended that the petitioner's husband had served the respondent department with sincerity, honesty and dedication and that the respondents are under an obligation to release all admissible service and pensionary benefits, including family pension, in accordance with the applicable rules. According to learned Senior counsel, the denial of such benefits is contrary to the constitutional safeguards and infringes upon the petitioner's right to live with dignity.

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3.2 Learned senior counsel for the petitioner also submitted that, to the petitioner's knowledge, no departmental inquiry was ever initiated against Late Shri Heera Ram, nor was any such inquiry pending against him. In these circumstances, it was contended that the petitioner is entitled to the release of all admissible retiral benefits along with interest at the rate of 24% per annum from the date the respective amounts became due.

3.3 Learned senior counsel for the petitioner further contended that the respondents had erroneously rejected the application seeking compassionate appointment for the petitioner or her children vide communication dated 09.06.2014. It was submitted that the object of compassionate appointment is to provide immediate financial assistance to the family of a deceased employee and to help it overcome the financial hardship arising from the loss of its breadwinner. Learned senior counsel argued that such a claim ought not to be rejected solely on the ground of delay, without duly considering the overall financial condition and circumstances of the bereaved family.

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3.4 Learned senior counsel for the petitioner further submitted that the notice dated 18.01.1991, relied upon by the respondents, was merely in the nature of a warning and could not be construed as a valid notice of termination of service. It was contended that the said communication was never served upon the petitioner's husband, Late Shri Heeraram. Learned senior counsel submitted that, through the aforesaid communication, the respondents had allegedly warned Late Shri Heeraram to resume duty within 24 hours of receipt thereof, failing which his services would be terminated in accordance with the Rajasthan State Electricity Board (Technical Workmen) Service Regulations, 1975 (hereinafter referred to as the 'TWSR, 1975'). However, such a warning, by itself, could not result in the lawful termination of his services.

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3.5 It was further contended that Regulation 18 of the TWSR, 1975 prescribes the procedure for termination of the services of a permanent workman and mandates the issuance of one month's notice by the Manager or payment of wages in lieu thereof. According to learned senior counsel, compliance with the aforesaid requirement was mandatory before terminating the services of a permanent workman. The purpose of providing such notice was to afford the employee an opportunity to submit his explanation before the termination of his services. Learned senior counsel asserted that no notice in compliance with the aforesaid provision was ever issued or served upon the petitioner's husband. Consequently, it was argued that the respondents could not validly contend that his services had been terminated in accordance with law.

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3.6 Learned senior counsel further submitted that, even assuming that Late Shri Heeraram had remained unauthorized absent from duty, as alleged by the respondents, no disciplinary proceedings were ever initiated against him in accordance with Regulations 21 and 22 of the TWSR, 1975. It was emphasized that neither was any disciplinary inquiry conducted nor was any notice initiating disciplinary proceedings on the charge of misconduct served upon him. In these circumstances, learned senior counsel contended that the service of the petitioner's husband were never terminated till his death.

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3.7 Placing reliance upon the settled legal position that pension benefits constitute an enforceable right and cannot be withheld at the discretion or whim of the employer, learned senior counsel contended that the continued non-payment of the admissible benefits amounts to an infringement of the petitioner's rights under Articles 21 and 300-A of the Constitution of India. Accordingly, learned senior counsel for the petitioner prayed that the writ petition be allowed and the respondents be directed to release the admissible retiral benefits, pension dues, arrears of family pension and all consequential benefits, together with interest at the rate of 24% per annum, without further delay.

3.8 Learned senior counsel for the petitioner has placed reliance upon the following judgments rendered by the Co-ordinate Benches of this Court in support of the submissions advanced on behalf of the petitioner:-

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(i) ***Smt. Surji Devi vs. State of Rajasthan & Ors.*** *in* ***S.B. Civil Writ Petition No.11405/2011*** *decided on* ***17.01.2017****.*

(ii) ***Kanahya Lal Harijan vs. The Superintending Engineer (Generation) & Anr.*** *in* ***S.B. Civil Writ Petition No.9859/2010*** *decided on* ***03.08.2011****.*

4. *Per contra,* learned counsel for the respondents submitted that Late Shri Heeraram remained willfully absent from duty with effect from 11.09.1990 without any intimation or prior notice. It was submitted that a notice in this regard was issued by the office vide letter dated 18.01.1991; however, no reply thereto was submitted by Late Shri Heeraram, husband of the petitioner. Learned counsel further contended that, in view of Rule 9(h) of the TWSR, 1975, the services of Late Shri Heeraram stood terminated and, consequently, the petitioner is not entitled to any pension benefits.

4.1 Learned counsel for the respondents further submitted that the action taken by the respondents was in accordance with the applicable rules and regulations and, therefore, does not warrant any interference by this Court. It was contended that the petitioner's husband had voluntarily and willfully remained absent from duty, despite the issuance of notice and that his services stood terminated in accordance with Rule 9(h) of the TWSR, 1975. It was further argued that the subsequent death of the petitioner's husband in the year 2001 does not confer any entitlement upon the petitioner to claim pension benefits, particularly when Late Shri Heeraram himself did not raise any claim during his lifetime, despite being aware of the termination of his services.

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4.2 Learned counsel also disputed the petitioner's assertion that her husband had sustained an electric shock, contending that he had ceased to remain in service prior to the year 1992 and that the said assertion had been made only to substantiate her claim for pension benefits, to which she was not entitled. It was, therefore, submitted that the respondents had acted strictly in accordance with the applicable rules and regulations and that no cause of action arose in favour of the petitioner. Accordingly, learned counsel for the respondents prayed that the writ petition be dismissed.

4.3 Learned counsel for the respondent has placed reliance upon the following judgments rendered by the Hon'ble Supreme Court and High Courts in support of the submissions advanced on behalf of the respondents:-

(i) ***City and Industrial Development Corporation vs. Dosu Aardeshir Bhiwandiwala & Ors.*** *reported in* ***(2009) Supreme Court Cases 168****.*

(ii) ***Nakhat Singh vs. Union of India & Ors.*** *reported in* ***2026 INSC 758****.*

(iii) ***Subhash Chand vs. Union of India & Ors.*** *in* ***W.P.© No.634/2020*** *decided on* ***11.03.2020****.*

(iv) ***Suraj Kumar Pandey vs. State of Arunachal Pradesh & Ors.*** *in* ***WP(C)No.329(AP) of 2009*** *decided on* ***20.08.2010****.*

5. Upon consideration of the pleadings, submissions advanced by learned counsel for the parties, and the material available on record, the following points arise for determination by this Court:

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5.1 Whether the services of Late Shri Heera Ram were ever terminated on account of his alleged unauthorized absence from duty with effect from 11.09.1990, having regard to the notice dated 18.01.1991 and the applicable provisions of the Rajasthan State Electricity Board (Technical Workmen) Service Regulations, 1975.

5.1.1 It is not in dispute that Late Shri Heera Ram was a permanent workman of the respondent department. Therefore, the legality of the alleged cessation of his services must be examined in the light of the relevant provisions of the TWSR, 1975. Accordingly, for the proper adjudication of the controversy involved, the relevant provisions of the TWSR, 1975 are reproduced herein below for ready reference:

"9. Leave of absence:....

(h) If a worker absents himself for more than 8 consecutive days' without leave he shall be deemed to have left the services of the Board without notice, thereby terminating his contract of service.

Provided further that if the concerned worker proves to the satisfaction of the manager that his absence was on account of sickness or other valid reason, the manager may at his own discretion convert his absence into leave due or leave without pay.

.....

18. Termination of Service:

(a) The employment of any permanent worker may be terminated by the Manager by giving one month's notice for monthly rated workmen or 14 days' notice in the case of other workmen by payment of one months

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or 14 days wages as the case may be, in lieu of notice. If the workman draws wages on a piece rate basis, the wages shall be calculated on the average daily earning of such workers for the days actually worked during the previous wage period, one month in the case of monthly-rated and two weeks in the case of other workmen.

(b) The employment of a Badli or temporary or Apprentice or casual worker may be terminated by the Manager without assigning any reason and without any notice or any payment in lieu of notice. The services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed.

(c) Where the employment of any worker is terminated by the Manager, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment was terminated in accordance with the provisions of Payment of Wages Act, 1936.

21. Acts and omissions of constituting Misconduct:

(e) Habitual absence without leave or absence without leave for more than 10 consecutive days.

22. Disciplinary action for misconduct:....

(3) Any workman found guilty of any misconduct enumerated above in Regulation-21 is liable to be dismissed without notice or compensation in lieu thereof or discharged from service or reduced to a lower cadre or post or his increment or promotion may be withheld or he may be censured provided that no such order shall be made unless the workman concerned is informed in writing of the misconduct alleged against him and given a reasonable

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opportunity of being heard in respect of those charges of misconduct against him and where it is proposed after enquiry to dismiss him or reduce to a lower cadre or post until he has been given a reasonable opportunity of making representation on the penalty proposed but only on the basis of the evidence adduced during such inquiry."

5.1.2 A conjoint reading of Regulations 9(h), 18(a), 21(e) and 22(3) of the Rajasthan State Electricity Board (Technical Workmen) Service Regulations, 1975 (hereinafter referred to as the 'TWSR, 1975') reveals that the regulations prescribe different consequences for unauthorized absence and termination of service. Regulation 9(h) provides that a worker who remains absent for more than eight consecutive days without leave shall be deemed to have left the services of the Board without notice, thereby terminating his contract of service, subject to the proviso concerning absence on account of sickness or other valid reasons. Regulation 18(a) provides for termination of the employment of a permanent workman by the Manager upon issuance of the prescribed notice or payment of wages in lieu thereof. Further, Regulation 21(e) treats habitual absence without leave or absence without leave for more than ten consecutive days as misconduct, while Regulation 22(3) prescribes the procedure for disciplinary action, including informing the workman in writing of the alleged misconduct and providing a reasonable opportunity of being heard.

5.1.3 In the present case, the deceased employee was permanent worker and remained willfully absent from duty with effect from

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11.09.1990 without any intimation or prior permission and, despite the issuance of notice dated 18.01.1991 directing him to resume duty, neither joined his duties nor submitted any explanation. Even then the respondents were required to terminate the services under Rule 18 of the TWSR, 1975.

5.1.4 Further on the material available on record, this Court finds merit in the contention advanced on behalf of the petitioner. It is not in dispute that Late Shri Heera Ram was substantively appointed to the post of Helper-II on 01.10.1971 and accorded permanent status with effect from 01.04.1974. Therefore, the legality of the cessation of his services must be examined in the context of his status as a permanent workman and the applicable service regulations. Although Regulation 9(h) contemplates deemed cessation of service in the event of unauthorized absence exceeding eight consecutive days, but that applies to a worker and not permanent worker. The mere allegation of prolonged absence does not, by itself, conclusively establish that the services of a permanent workman lawfully came to an end.

5.1.5 It is also significant that the notice dated 18.01.1991, as described in the pleadings, called upon Late Shri Heera Ram to resume duty, failing which further action could be taken in accordance with the applicable regulations. Such a notice, in the absence of any express direction terminating his employment or any subsequent order or proceeding establishing the cessation of service, cannot by itself be treated as a final order of termination. A direction to resume duty and an order terminating employment

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are distinct in their nature and legal consequences. Further, if the respondents intended to terminate his services by way of disciplinary action for misconduct under Regulations 21(e) and 22(3), compliance with the prescribed procedure, including the requirement of informing him in writing of the alleged misconduct and affording him a reasonable opportunity of being heard, was necessary. The material referred to before this Court does not establish that such disciplinary proceedings were initiated or concluded against him.

5.1.6 The respondents have also failed to establish, on the material presently available, that Regulation 9(h) validly operated to terminate the services of Late Shri Heera Ram or that any subsequent order or proceeding lawfully brought his employment to an end. Consequently, the respondents' contention that his services stood terminated merely because he failed to resume duty pursuant to the notice dated 18.01.1991 cannot be accepted. This Court is, therefore, unable to agree with the contention advanced on behalf of the respondents and finds merit in the petitioner's submission that the aforesaid notice, being in the nature of a warning to resume duty, cannot by itself be construed as a valid order of termination.

5.1.7 Further, the contention raised by the Respondents is untenable, as the Respondents had already transferred the GPF amount on 21.07.2014. Accordingly, the said contention is misconceived and contrary to the factual position on record.

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5.1.8 Accordingly, the first issue is decided in favour of the petitioner, as the respondents have failed to establish that the services of Late Shri Heera Ram were lawfully terminated in accordance with the applicable provisions of the TWSR, 1975.

5.2 Whether, in view of the finding that the respondents have failed to establish the lawful termination of the services of Late Shri Heera Ram, the petitioner is entitled to family pension and other admissible retiral benefits, including gratuity and outstanding service dues, in accordance with the applicable service and pension rules.

5.2.1 Having decided the first issue in favour of the petitioner, this Court proceeds to examine her entitlement to family pension and other admissible retiral benefits consequent upon the death of her husband, Late Shri Heera Ram, on 07.06.2001. It is the petitioner's case that her husband was substantively appointed to the post of Helper-II on 01.10.1971, was accorded permanent status with effect from 01.04.1974, and had rendered more than twenty years of service. She has further submitted that, despite repeated representations seeking the release of family pension and other outstanding service dues, the respondents failed to disburse the admissible benefits, except for the amount of Rs.1,22,685/- towards General Provident Fund (GPF), which was released vide order dated 21.07.2014.

5.2.2 Per contra, the respondents have resisted the petitioner's claim on the ground that Late Shri Heera Ram had ceased to be in service with effect from 11.09.1990 on account of unauthorized

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absence and, consequently, the petitioner is not entitled to family pension or other retiral benefits. However, in view of the finding recorded while deciding the first issue, the respondents cannot deny the petitioner's claim solely on the basis of the alleged cessation of service, particularly when they have failed to establish that his services were lawfully terminated in accordance with the applicable provisions of the TWSR, 1975.

5.2.3 Having considered the rival submissions and the material available on record, this Court finds that the petitioner's entitlement to family pension and other retiral benefits is required to be determined in accordance with the service and pension rules applicable to Late Shri Heera Ram. His substantive appointment and permanent status are relevant considerations in determining his service entitlements. Nevertheless, the actual entitlement to each category of benefit must be ascertained in accordance with the applicable rules and the relevant service records. Family pension, gratuity and other outstanding service dues are distinct entitlements governed by their respective provisions, and the petitioner's claim in respect of each category must be considered accordingly.

5.2.4 The payment of GPF amounting to Rs.1,22,685/- establishes that the said amount has already been disbursed to the petitioner; however, such payment does not, by itself, establish that all other admissible service and pension benefits have been settled. The respondents are, therefore, required to examine the petitioner's entitlement to family pension, gratuity and other outstanding

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service dues in the light of the findings recorded herein above, determine the amounts lawfully payable to her, and account for the payments already made. The respondents cannot withhold any admissible benefit without establishing a valid basis for doing so under the applicable rules.

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5.2.5 In view of the foregoing discussion, this Court holds that the petitioner is entitled to a determination and disbursement of the family pension and other retiral benefits admissible to her under the applicable service and pension rules. Accordingly, the second issue is decided in favour of the petitioner to the aforesaid extent.

6. So far as the judgments relied upon by learned counsel for the respondents are concerned, this Court is of the considered view that it is a settled principle of law that the each case must be examined in the light of the facts and circumstances of the case. The respondents have placed reliance upon the aforesaid judgments primarily to contend that the delay in approaching this Court constitutes a sufficient ground for dismissal of the present writ petition. However, delay and laches, though relevant considerations, do not invariably operate as an absolute bar to the grant of relief in every case. The question of delay must be examined having regard to the nature of the claim, the circumstances explaining the delay, the conduct of the parties, and the nature of the relief sought. The Court is required to exercise its discretion judiciously, taking into consideration the overall facts and circumstances of each case, rather than dismissing a petition solely on the ground of delay without examining the nature and

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merits of the claim. In the present case, the petitioner seeks family pension and other admissible retiral benefits allegedly withheld by the respondents, and the legality of the cessation of her husband's services has also been examined in the light of the applicable service regulations. Therefore, the judgments relied upon by the respondents cannot be applied mechanically, and the question of delay must be considered in the context of the specific facts, the nature of the benefits claimed, and the findings recorded herein above. The claim for family pension gives rise to a recurring cause of action, as the pension is payable on a monthly basis. Therefore, the cause of action continues to arise with each successive month in which the family pension is not paid. Accordingly, the present petition cannot be dismissed on the ground of delay and laches.

7. In view of the foregoing discussion and findings, the present writ petition is **partly allowed** with the directions to the respondents that they shall determine the petitioner's entitlement to family pension, gratuity and other outstanding retiral or service dues in accordance with the applicable service and pension rules, keeping in view the findings recorded in this judgment and the relevant service records of Late Shri Heera Ram. Further, the respondents shall calculate the amounts admissible to the petitioner under the respective heads, after duly accounting for the GPF amount of Rs.1,22,685/- already disbursed, and shall release all amounts found payable to her within a period of 60 days from the date of receipt of a certified copy of this order. Additionally, the claim for interest on the delayed payment of

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admissible benefits shall be considered in accordance with the applicable rules and law.

8. All pending applications, if any, also stand disposed of.

9. No order as to costs.

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