



2026 INSC 959

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NOS. _____ OF 2026
(ARISING OUT OF S.L.P. (CIVIL) NOS. _____ OF 2026)
(@ DIARY NO. 43299/2024)**

MAYA BANERJEE

...APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

ORDER

1. Delay condoned.
2. Leave granted.
3. A short question of importance is raised in these Appeals as to the appellant's entitlement to arrears of family pension consequent upon the death of her husband on 12.11.2000. However, the High Court has allowed family pension to the appellant from the year 2014, the time when she first approached the Central Administrative Tribunal¹, instead of allowing the same when it fell due upon the death of her husband.
4. As the facts of the matter are not in dispute, we shall refer to them very briefly. The appellant is the widow of Late K.M. Banerjee, an employee of Railways, who died on 12.11.2000 while in service as a Leverman. It is the appellant's case that she was living separately from her husband on account of some dispute and she, being an illiterate lady, used to earn her livelihood while offering maid services in the neighbourhood. The appellant

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NISHA KHILNAR
Date: 2026.09.08
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Reason:

¹ For short, 'CAT'

was unknown about her husband's service and his place of posting when he died on 12.11.2000 as per the death certificate (Annexure-P/3).

5. As per Railway Board's Letter bearing No.E(D&A) 99 RG6-26 dated 19.06.2000 (RBE No. 115/2000), in the event of death of the charged employee during the pendency of the proceedings, the same should be closed immediately on the death of the charged railway servant. Despite this rule position, the appellant's late husband was dismissed from service on 10.10.2001. On being aware of the said order of dismissal, the appellant preferred an appeal before the competent authority which was rejected on 24.07.2012 on the ground that the appeal was belatedly filed and that there were two varying dates of death available on record. Thereafter, the appellant served a legal notice on the respondent(s) seeking settlement of dues in her favour. However, when no action was taken thereon, the appellant preferred an original application which came to be dismissed by CAT on the ground of limitation.

6. In the meanwhile, the appellant also preferred a suit being Civil Suit No.269(A)/2014 seeking declaration about the date of death of her late husband which was decreed on 13.2.2015 declaring the date of death of her late husband as 12.11.2000. The said judgment and decree has attained finality.

7. The appellant thereafter moved the High Court by way of a writ petition in which the impugned order has been passed allowing the appellant's claim to family pension. Yet the same has been restricted from

the year 2014 onwards, the time when the appellant first approached the CAT.

8. It is argued that the appellant is entitled for family pension which fell due immediately after the death of her husband. Therefore, restricting the family pension from 2014 onwards is not in accordance with law.

9. Per contra, learned ASG appearing for the respondents would refer to the law laid down by this Court in ***Union of India and Others vs. Tarsem Singh***² to argue that the High Court has rightly restricted the consequential relief of recovery of arrears from 2014 onwards.

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

11. In the matter of ***State of Kerala and Others vs. M. Padmanabhan Nair***³, this Court had held that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement, but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with penalty of payment of interest.

12. The issue as to when the past arrears of pension can be restricted to a particular period instead of allowing the same from the date it fell due was considered by this Court in the matter of ***S.K. Mastan Bee vs. General Manager, South Central Railway and Another***⁴. In this case also, the claim for pension was moved by the widow of the deceased servant of the Railways, who died in harness on 21.11.1969. However, due to ignorance

2 (2008) 8 SCC 648

3 (1985) 1 SCC 429

4 (2003) 1 SCC 184

and lack of legal assistance, she could not stake her claim for family pension till 12.3.1991. Her claim was rejected by the Railways against which she preferred a writ petition which was allowed by the learned Single Judge. However, in an intra-court appeal preferred by the Railways, the Division Bench applied the principle of law of limitation applicable to suits and confined the retrospective benefit given by the learned Single Judge to a period subsequent to the date on which a legal notice was given by the widow of the deceased servant of Railways.

In the above factual background of the case in **S.K. Mastan Bee** (*supra*), this Court observed thus in paragraph 6:

“6. We notice that the appellant's husband was working as a Gangman who died while in service. It is on record that the appellant is an illiterate who at that time did not know of her legal right and had no access to any information as to her right to family pension and to enforce her such right. On the death of the husband of the appellant, it was obligatory for her husband's employer viz. the Railways, in this case to have computed the family pension payable to the appellant and offered the same to her without her having to make a claim or without driving her to a litigation. The very denial of her right to family pension as held by the learned Single Judge as well as the Division Bench is an erroneous decision on the part of the Railways and in fact amounting to a violation of the guarantee assured to the appellant under Article 21 of the Constitution. The factum of the appellant's lack of resources to approach the legal forum timely is not disputed by the Railways. The question then arises on facts and circumstances of this case, was the Appellate Bench justified in restricting the past arrears of pension to a period much subsequent to the death of the appellant's husband on which date she had legally become entitled to the grant of pension? In this case as noticed by us hereinabove, the learned Single Judge had rejected the contention of delay put forth by the Railways and taking note of the appellant's right to pension and the denial of the same by the Railways illegally considered it appropriate to grant the pension with retrospective effect from the date on which it became due to her. The Division Bench also while agreeing with the learned Single Judge observed that the delay in approaching the Railways by the appellant for the grant of family pension was not fatal, in spite of the same it restricted the payment of family pension from a date on which the appellant issued a legal notice to the Railways i.e. on 1-4-1992. We think on the facts of this case inasmuch as it was an obligation of the Railways to have computed the family pension and offered the same to the widow of its employee as soon as it

became due to her and also in view of the fact that her husband was only a Gangman in the Railways who might not have left behind sufficient resources for the appellant to agitate her rights and also in view of the fact that the appellant is an illiterate, the learned Single Judge, in our opinion, was justified in granting the relief to the appellant from the date from which it became due to her, that is the date of the death of her husband. Consequently, we are of the considered opinion that the Division Bench fell in error in restricting that period to a date subsequent to 1-4-1992.”

(emphasis supplied)

13. Although in **Tarsem Singh (supra)**, this Court has held that if the issue relates to pension or refixation of pay or pension, a relief may be granted in spite of delay. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.

14. The principle laid down in **S.K. Mastan Bee (supra)** is also by a two-Judge Bench like that in the matter of **Tarsem Singh (supra)**. However, **S.K. Mastan Bee (supra)** is directly related to the case of family pension claim by a widow like in the present case. This Court, while taking a view in **Tarsem Singh (supra)** that the consequential relief of recovery of arrears should be restricted by the High Courts normally to a period of three years prior to the date of the filing of the writ petition, has not taken into consideration the earlier view of this Court in **S.K. Mastan Bee (supra)**. In a situation like this, this Court is required to ponder as to what course is

open when there is conflict in the views taken in two judgments of this Court rendered by the Benches of equal strength.

15. A seminal issue fell for consideration before this Court in ***Union of India and Others vs. S.K. Kapoor***⁵ wherein it was held thus in paragraph 9:

“9. It may be noted that the decision in *S.N. Narula case* [(2011) 4 SCC 591] was prior to the decision in *T.V. Patel case* [(2007) 4 SCC 785 : (2007) 2 SCC (L&S) 98]. It is well settled that if a subsequent coordinate Bench of equal strength wants to take a different view, it can only refer the matter to a larger Bench, otherwise the prior decision of a coordinate Bench is binding on the subsequent Bench of equal strength. Since, the decision in *S.N. Narula case* [(2011) 4 SCC 591] was not noticed in *T.V. Patel case* [(2007) 4 SCC 785 : (2007) 2 SCC (L&S) 98], the latter decision is a judgment per incuriam. The decision in *S.N. Narula case* [(2011) 4 SCC 591] was binding on the subsequent Bench of equal strength and hence, it could not take a contrary view, as is settled by a series of judgments of this Court.”

(emphasis supplied)

16. Yet again in ***Dr. Shah Faesal and Others vs. Union of India and Another***⁶, this Court had occasion to consider the doctrine of precedent and *stare decisis* and observed thus in paragraph 18:

“18. Doctrines of precedents and stare decisis are the core values of our legal system. They form the tools which further the goal of certainty, stability and continuity in our legal system. Arguably, Judges owe a duty to the concept of certainty of law, therefore they often justify their holdings by relying upon the established tenets of law.”

17. Coming specific to the issue as to whether a ruling of a Coordinate Bench binds the subsequent Coordinate Benches, this Court in ***Dr. Shah Faesal (supra)*** held thus in paragraphs 23 to 26:

“23. This brings us to the question, as to whether a ruling of a coordinate Bench binds subsequent coordinate Benches. It is now a settled principle of law that the decision rendered by a coordinate Bench is binding on the subsequent Benches of equal or lesser strength. The aforesaid view is reinforced in the *National*

⁵ (2011) 4 SCC 589

⁶ (2020) 4 SCC 1

Insurance Co. Ltd. v. Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] wherein this Court held that : (SCC pp. 713-14, para 59)

“59.1. The two-Judge Bench in Santosh Devi [Santosh Devi v. National Insurance Co. Ltd., (2012) 6 SCC 421 : (2012) 3 SCC (Civ) 726 : (2012) 3 SCC (Cri) 160 : (2012) 2 SCC (L&S) 167] should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] , a judgment by a coordinate Bench. ***It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.***”

(emphasis supplied)

24. The impact of non-consideration of an earlier precedent by a coordinate Bench is succinctly delineated by Salmond [Salmond on Jurisprudence [P.J. Fitzgerald (Ed.), 12th Edn., 1966], p. 147.] in his book in the following manner:

“... A refusal to follow a precedent, on the other hand, is an act of coordinate, not of superior, jurisdiction. Two courts of equal authority have no power to overrule each other's decisions. *Where a precedent is merely not followed, the result is not that the later authority is substituted for the earlier, but that the two stand side by side conflicting with each other. The legal antinomy thus produced must be solved by the act of a higher authority, which will in due time decide between the competing precedents, formally overruling one of them, and sanctioning the other as good law. In the meantime the matter remains at large, and the law uncertain.*”

(emphasis supplied)

25. In this line, further enquiry requires us to examine, to what extent does a ruling of coordinate Bench bind the subsequent Bench. A judgment of this Court can be distinguished into two parts : ratio decidendi and the obiter dictum. The ratio is the basic essence of the judgment, and the same must be understood in the context of the relevant facts of the case. The principal difference between the ratio of a case, and the obiter, has been elucidated by a three-Judge Bench decision of this Court in Union of India v. Dhanwanti Devi [Union of India v. Dhanwanti Devi, (1996) 6 SCC 44] wherein this Court held that : (SCC pp. 51-52, para 9)

“9. ... It is not everything said by a Judge while giving judgment that constitutes a precedent. *The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. ... A decision is only an authority for what it actually decides. ... The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, ascertained on a consideration of the judgment in relation to the subject-matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution.*”

(emphasis supplied)

26. The aforesaid principle has been concisely stated by Lord Halsbury in *Quinn v. Leatham* [*Quinn v. Leatham*, 1901 AC 495 (HL)] in the following terms : (AC p. 506)

“... that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that *a case is only an authority for what it actually decides.*”

(emphasis supplied)”

(emphasis supplied)

18. The rule of *per incuriam* has been explained in **Dr. Shah Faesal** (*supra*) in subsequent paragraphs 28 to 32 in the following words:

“28. The rule of *per incuriam* has been developed as an exception to the doctrine of judicial precedent. Literally, it means a judgment passed in ignorance of a relevant statute or any other binding authority [see *Young v. Bristol Aeroplane Co. Ltd.* [*Young v. Bristol Aeroplane Co. Ltd.*, 1944 KB 718 (CA)]]. The aforesaid rule is well elucidated in *Halsbury’s Laws of England* in the following manner [3rd Edn., Vol. 22, Para 1687, pp. 799-800.] :

“1687. ... the court is not bound to follow a decision of its own if given *per incuriam*. A *decision is given per incuriam when the court has acted in ignorance of a previous decision of its own or of a court of a coordinate jurisdiction which covered the case before it, or when it has acted in ignorance of a decision of the House of Lords.* In the former case it must decide which decision to follow, and in the latter it is bound by the decision of the House of Lords.”

(emphasis supplied)

29. In this context of the precedential value of a judgment rendered *per incuriam*, the opinion of Venkatachaliah, J., in the seven-Judge Bench decision of *A.R. Antulay v. R.S. Nayak* [*A.R. Antulay v. R.S. Nayak*, (1988) 2 SCC 602 : 1988 SCC (Cri) 372] assumes great relevance : (SCC p. 716, para 183)

“183. But the point is that the circumstance that a decision is reached *per incuriam*, *merely serves to denude the decision of its precedent value.* Such a decision would not be binding as a judicial precedent. A coordinate Bench can disagree with it and decline to follow it. A larger Bench can overrule such decision. *When a previous decision is so overruled it does not happen — nor has the overruling Bench any jurisdiction so to do — that the finality of the operative order, inter partes, in the previous decision is overturned.* In this context the word “decision” means *only the reason for the previous order and not the operative order in the previous decision, binding inter partes.* ... Can such a decision

be characterised as one reached per incuriam? Indeed, Ranganath Misra, J. says this on the point : (para 105)

‘Overruling when made by a larger Bench of an earlier decision of a smaller one is intended to take away the precedent value of the decision without effecting the binding effect of the decision in the particular case. Antulay, therefore, is not entitled to take advantage of the matter being before a larger Bench.’”

(emphasis supplied)

30. The counsel arguing against the reference have asserted that the rule of per incuriam is limited in its application and is contextual in nature. They further contend that there needs to be specific contrary observations which were laid down without considering the relevant decisions on the point, in which case alone the principle of per incuriam applies.

31. Therefore, the pertinent question before us is regarding the application of the rule of per incuriam. This Court while deciding Pranay Sethi case [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] , referred to an earlier decision rendered by a two-Judge Bench in Sundeep Kumar Bafna v. State of Maharashtra [Sundeep Kumar Bafna v. State of Maharashtra, (2014) 16 SCC 623 : (2015) 3 SCC (Cri) 558] , wherein this Court emphasised upon the relevance and the applicability of the aforesaid rule : (Sundeep Kumar Bafna case [Sundeep Kumar Bafna v. State of Maharashtra, (2014) 16 SCC 623 : (2015) 3 SCC (Cri) 558] , SCC p. 642, para 19)

“19. It cannot be overemphasised that the discipline demanded by a precedent or the disqualification or diminution of a decision on the application of the per incuriam rule is of great importance, since without it, certainty of law, consistency of rulings and comity of courts would become a costly casualty. A decision or judgment can be per incuriam any provision in a statute, rule or regulation, which was not brought to the notice of the court. **A decision or judgment can also be per incuriam if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a co-equal or larger Bench; or if the decision of a High Court is not in consonance with the views of this Court. It must immediately be clarified that the per incuriam rule is strictly and correctly applicable to the ratio decidendi and not to obiter dicta.**”

(emphasis supplied)

32. The view that the subsequent decision shall be declared per incuriam only if there exists a conflict in the ratio decidendi of the pertinent judgments was also taken by a five-Judge Bench decision of this Court in Punjab Land Development & Reclamation Corpn. Ltd. v. Labour Court [Punjab Land Development & Reclamation Corpn. Ltd. v. Labour Court, (1990) 3 SCC 682 : 1991 SCC (L&S) 71] : (SCC pp. 706-07, para 43)

“43. As regards the judgments of the Supreme Court allegedly rendered in ignorance of a relevant constitutional provision or other statutory provisions on the subjects covered by them, it is true that the Supreme Court may not be said to “declare the law”

on those subjects if the relevant provisions were not really present to its mind. But in this case Sections 25-G and 25-H were not directly attracted and even if they could be said to have been attracted in laying down the major premise, they were to be interpreted consistently with the subject or context. *The problem of judgment per incuriam when actually arises, should present no difficulty as this Court can lay down the law afresh, if two or more of its earlier judgments cannot stand together.*"

(emphasis supplied)"

(emphasis supplied)

19. In an extremely recent judgment in the matter of ***Parveen Kumar @ Parveen Chauhan vs. State of Haryana and Others***⁷, this Court culled out the principles of *per incuriam* to hold thus in paragraph 14:

"14. We have to specifically deal with a submission on behalf of the appellant that the judgment in Rajkumar supra [State of Haryana vs. Raj Kumar, (2010) 4 SCC 216] does not have value as precedent. When 'does' or 'does not' in a decision become *per incuriam*, is a question that has been discussed in various judgments. Certain facets emerge from these discussions as follows:

14.1 It is an exception to the rule of *stare decisis* and must be applied sparingly;

14.2 A judgment is *per incuriam*:

(a) when its ratio is not reconcilable with an earlier decision rendered by a Bench of equal or higher strength; or

(b) when a particular provision or a statute or a rule or a regulation has not been brought to the attention of the Court;

14.3 It applies only to the *ratio decidendi* of a judgment and not to *obiter dicta*;

14.4 Judicial discipline requires that if a bench disagrees with another bench of co-equal strength the matter should be referred to a bench of three judges to decide the issue;

14.5 The decision rendered by the Bench of largest strength binds any subsequent Bench of co-equal or lesser strength. A Bench of lesser strength cannot dissent from the view already taken by a Bench of larger strength;

14.6 A judgment cannot be said to be *per incuriam*:

(a) if it makes reference to an earlier decision and then concludes correctly or incorrectly; or

(b) if the ordinary reading of the judgment does not on the face of it show it to be in conflict with earlier decisions, the court should refrain adopting such an interpretation.

14.7 It is not the numerical strength of judges taking a particular view that is relevant but it is instead the strength of the Bench, which is the determinative factor of the binding nature of a particular view.”

20. When the principles concerning the binding value of two conflicting decisions rendered by the Benches of equal strength are settled, as quoted in the above referred judgments, we have to apply the principles in the case in hand to decide whether the appellant would be entitled to family pension from the date it fell due or she is entitled to it from the year 2014 as has been directed by the High Court.

21. In our considered view, considering the right of an individual to receive family pension which is held akin to a valuable right and property in her hand and is no longer treated as a bounty, restricting the same from 2014 onwards would not only be arbitrary, but it will amount to inflicting injustice upon a poor widow who was earning livelihood by working as a house maid in the neighbourhood when her husband died in harness. Not only that her husband was dismissed after his death which was impermissible as per the Railway Board's own circular, the appellant's subsequent representation claiming family pension was rejected on the ground of incongruity as to the date of death of her late husband. The appellant had to file a civil suit to obtain a declaration as to the exact date of death of her husband, for which otherwise, a death certificate, a statutory document, had already been issued in her favour. Thus, the appellant was not at fault in laying the delayed challenge to the Railways' refusal to grant

family pension to her. In our view, the ratio in **S.K. Mastan Bee (supra)** has dealt with the specific issue of restricting the past arrears of pension in more appropriate manner and the same having not been considered by the latter Bench of equal strength in **Tarsem Singh (supra)**, the only choice open to us is to rely on **S.K. Mastan Bee (supra)** to allow the present Appeals.

22. In view of the settled legal position as to the binding value of the earlier judgments, we are persuaded to follow the principles laid down by this Court in **S.K. Mastan Bee (supra)** and, as a consequence, we allow the present Appeals and modify the order passed by the High Court to direct that the appellant shall be entitled to family pension from the date of death of her husband i.e., from 12.11.2000. The entire arrears shall be paid to the appellant with interest at the rate of 6% per annum within a period of three months from today.

.....J.
(PRASHANT KUMAR MISHRA)

.....J.
(SHREE CHANDRASHEKHAR)

**NEW DELHI;
AUGUST 20, 2026.**