

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.2

O.A. No. 1164 of 2023

Smt Babita Rani W/o Sub Vinod Kumar Applicant
By Legal Practitioner for the Applicant : Shri KK Misra, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Ms Amrita Chakraborty, Shri VP Pandey and
Shri RK Singh, Advocates

Notes of the Registry	Orders of the Tribunal
	<p><u>10.12.2024</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Lt Gen Anil Puri, Member (A)</u></p> <p>1. On the case being taken up for hearing, Shri KK Misra, learned counsel for the applicant and Ms Amrita Chakraborty, learned counsel for the respondent No 1 to 3 and Shri VP Pandey and Shri RK Singh, learned counsel for the respondent No 4 are present.</p> <p>2. Heard learned counsel for the parties and perused the record.</p> <p>3. This O.A. has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 by which the following reliefs have been claimed:-</p> <p style="padding-left: 40px;">(i) To direct the respondents to stop payment of retiral benefits to the husband of the applicant, JC-383382K Sub Vinod Kumar of 43 WEU (AF), C/o 56 APO, due to be paid on or after 31 Oct 2023, till finalization of her civil suit.</p> <p style="padding-left: 40px;">(ii) Any other relief which the Hon'ble Tribunal may think just and proper may be granted to the applicant.</p> <p style="padding-left: 40px;">(iii) Cost of the case may be awarded in favour of the applicant.</p> <p>4. Brief facts of the case are that the applicant is wife of JC-383382K Sub Vinod Kumar (now retired) who was serving with 43 Wireless Experimental Unit (Air Force). During the course of service, due to stranded relations between husband and wife the applicant left house of her husband (respondent No 4) alongwith her daughter Miss Shruti and decided to reside with her parents. Being separated from her husband and having no source of income, she approached the respondents for grant of maintenance allowance for self and daughter which was sanctioned in terms of Section 91 of the Army Act, 1950 w.e.f.</p>

	<p>03.12.2019 vide letter dated 16.09.2022 (Annexure A-1 to O.A.) with the condition that the maintenance allowance shall be enforce up to the period of subsistence of marriage or till her husband is discharged/retired.</p> <p>5. This O.A. was filed on 20.09.2023 to which respondents have filed objection on 19.01.2024 in which it is stated in Para 3 that applicant's husband has already been discharged from service w.e.f. 31.10.2023 (AN), therefore, this O.A. is not legally tenable as relationship between the employee and the employer has been dissolved.</p> <p>6. Having perused the record, it reveals that the applicant has filed case No. 1165 of 2022 under 125 CrPC (Annexure A-2 to O.A.) before Chief Judicial Magistrate (Family Court) Merrut on 21.11.2022 for grant of maintenance allowance, which is pending.</p> <p>7. The applicant was granted maintenance allowance till such time the respondent No 4 was in service and since respondent No 4 has already been discharged from service w.e.f. 31.10.2023 (AN), there are no enabling provisions for grant of maintenance allowance from pension of the respondent No 4.</p> <p>8. In view of the above and the fact that since retiral benefits in respect of respondent No 4 have already been disbursed in the year 2023, this O.A. has become infructuous and is accordingly, dismissed as infructuous.</p> <p>9. No order as to costs.</p> <div><div><p>(Lt Gen Anil Puri) Member (A)</p><p><i>rathore</i></p></div><div><p>(Justice Anil Kumar) Member (J)</p></div></div>
--	--

