

Form No. 4  
{See rule 11(1)}  
ORDER SHEET  
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW  
Court No.2 (Sl. No. 6)

O.A. No. 73 of 2018

Smt Bobby DeviApplicant  
By Legal Practitioner for the Applicant : Shri Veer Raghav Chaubey, Advocate

Versus

Union of India & OthersRespondents  
By Legal Practitioner for Respondents : Shri RC Shukla, Advocate

Notes of the Registry	Orders of the Tribunal
	<div><div>06.08.2024</div><div>Hon'ble Mr. Justice Anil Kumar, Member (J)</div><div>Hon'ble Maj Gen Sanjay Singh, Member (A)</div></div> <div><div>1. Heard Shri Veer Raghav Chaubey, Ld. Counsel for the applicant and Shri RC Shukla, Ld. counsel for the respondents and perused the record.</div><div>2. This O.A. has been filed by the applicant Smt Bobby Devi for issuing direction to the respondents for grant of maintenance allowance, under Section 90 (i) of the Army Act, 1950, from her husband No 3192635N Havildar Rajkumar (respondent No 7) who was serving in JAT Regiment of the Indian Army.</div><div>3. Applicant's contention is that prior to filing of this O.A. she had submitted representations dated 04.12.2017 and 22.12.2017 i.e. well before the date of discharge of respondent No 7, but without considering her grievances he was discharged from service on 31.03.2018. Further submission of learned counsel for the applicant is that respondent No 7 has cheated the applicant as he has extra marital affairs with some other lady and there is every possibility that while preparing pension documents, photograph of that lady may be used for grant of family pension. It is further submitted by learned counsel for the applicant that since husband of the applicant has been discharged from service, this O.A. has become infructuous.</div><div>4. Respondents' contention is that grievance of the applicant was never received by them prior to receipt of copy of this O.A. It is further submitted that discharge order once issued cannot be cancelled without the consent of serving soldier in terms of Army Rule 11 (2) of Army Rules, 1954 which specifies that the discharge of a person, validly sanctioned by a competent authority, may, with the consent of the discharged person, be cancelled by any authority superior to the authority who sanctioned the discharge either without any condition or subject to such conditions as such discharged person accepts. It is also submitted that applicant's husband has been discharged from service</div></div>

w.e.f. 31.03.2018 (AN), therefore, maintenance allowance is not admissible from pension. He pleaded that in the circumstances this O.A. may be dismissed being infructuous.

5. The records shows that while preparing pension documents, applicant's husband has nominated the applicant as his NOK for grant of family pension and her photograph has been affixed on all pension documents. The applicant has signed and affixed her thumb impression on pension papers, therefore, allegations levelled against the respondent No 7 that he may use photograph of other lady are baseless.

6. Heard learned counsel for the parties and perused the record.

7. Applicant's husband has been discharged from service w.e.f. 31.03.2018 (AN). Grant of maintenance allowance to the applicant was applicable only till the time her husband was in service and no provision exists for granting maintenance allowance from the pension of respondent No 7. In our considered view Family Court is the competent authority for grant of maintenance allowance.

8. In view of the fact that applicant's husband has already been discharged from service and no maintenance allowance is admissible from pension of respondent No 7, and also in view of submission made by learned counsel for the parties, this O.A. is dismissed being infructuous.

9. No order as to costs.

10. Miscellaneous application (s), pending if any, stand disposed off.

**(Maj Gen Sanjay Singh)**  
**Member (A)**

**(Justice Anil Kumar)**  
**Member (J)**

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Form No. 4  
{See rule 11(1)}  
ORDER SHEET  
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW  
Court No.2 (Sl. No. 7)

**Sandeep Kumar**  
By Legal Practitioner for the Applicant : Shri KK Misra, Advocate

O.A. No. 191 of 2018

Applicant

**Union of India & Others**  
By Legal Practitioner for Respondents : Shri Kaushik Chatterjee, Advocate

Versus

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><b><u>06.08.2024</u></b> <b><u>Hon’ble Mr. Justice Anil Kumar, Member (J)</u></b> <b><u>Hon’ble Maj Gen Sanjay Singh, Member (A)</u></b></p> <p>1. Heard Shri KK Misra, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. counsel for the respondents.</p> <p>2. This O.A. has been filed by the applicant for stoppage of maintenance allowance granted to his wife Smt Pratibha Devi vide order dated 10.11.2016 passed by Headquarters Eastern Command.</p> <p>3. Brief facts of the case are that the applicant was enrolled in the Army on 10.10.2007 in Rajput Regiment. During the course of his service he was married to Ms Pratibha on 25.02.2015 and Part-II Order No 0/0295/2016 dated 31.07.2016 was notified by 3 Rajput Regiment. Soon after marriage, relations between husband and wife became strained. They filed court cases against each other in learned court Unnao and Hardoi. On 14.02.2016, the matter was reconciled on the advice of the Commanding Officer, 3 Rajput and both promised to live in harmony. Though the applicant withdrew his case from District Court Hardoi, Smt Pratibha Devi did not withdraw her case filed against her husband. Thereafter, the applicant again filed case under Section 9 and 13 of Hindu Marriage Act, 1955 for restitution of conjugal rights or else divorce.</p> <p>4. During the pendency of this O.A., applicant has been discharged from service. Grant of maintenance allowance to Smt Pratibha Devi was applicable only till the time her husband was in service and no provision exists for granting maintenance allowance from the pension of the applicant.</p> <p>5. Heard learned counsel for the parties and perused the record.</p> <p>6. During the course of hearing, learned counsel for the parties submitted that since the applicant has been discharged from service and no maintenance allowance is admissible from his pension, this O.A. has become infructuous.</p> <p>7. With the consent of learned counsel for the parties, this O.A. is dismissed being rendered infructuous.</p> <div><div><b>(Maj Gen Sanjay Singh)</b> <b>Member (A)</b> <i>rathore</i></div><div><b>(Justice Anil Kumar)</b> <b>Member (J)</b></div></div>