

**Form No. 4**  
**{See rule 11(1)}**  
**ORDER SHEET**  
**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No. 2(Ser No. 3)**

**EX-A. No. 291 of 2022 Inre O.A. No. 285 of 2013**

**Smt Sunita Devi** Applicant  
By Legal Practitioner for the Applicant : Shri Yashpal Singh, Advocate

Versus

**Union of India & Others** Respondents  
By Legal Practitioner for Respondents: Dr. Shailendra Sharma Atal, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><b><u>03.02.2025</u></b> <b><u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u></b> <b><u>Hon'ble Lt Gen Anil Puri, Member (A)</u></b></p> <p>1. On the case being taken up for hearing, Shri Yashpal Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. counsel for the respondents are present.</p> <p>2. Heard learned counsel of both the sides and perused the record.</p> <p>3. This O.A. was filed by the applicant for the following reliefs:-</p> <p style="padding-left: 40px;">(i) To direct the respondents to grant physical casualty award benefits, pensionary benefits and other benefits as entitled to the applicant and her husband being the dependents of deceased, No 15421596Y Sepoy Ambulance Assistant Tarun Kumar Yadav.</p> <p style="padding-left: 40px;">(II) Any other relief as considered proper by this Hon'ble Tribunal be awarded in favour of the applicant.</p> <p style="padding-left: 40px;">(iii) Cost of the application be awarded to the applicant.</p> <p>4. This O.A. was decided by this Tribunal on 02.03.2021. Last three paras i.e. Para Nos 10, 11 and 12 of the order are as follows:-</p> <p style="padding-left: 40px;"><i>“10. In view of aforesaid Schedule of heirs in class I, since the widow of deceased soldier has no child then widow and mother are entitled to get share of family pension, being inherited property of the deceased soldier. Hence, Smt Sunita Devi (mother) and Smt Babita Yadav (Wife) are equally entitled for share of family pension being inherited property of the deceased soldier. Therefore, mother is held entitled to receive half of the pensionary benefits being inherited property of the deceased soldier. The division of family pension in equal proportion between the applicant and her widowed daughter-in-law should be allowed with stipulation that in the event of death of either, the survivor would draw full family pension thereafter.</i></p> <p style="padding-left: 40px;"><i>11. In view of aforesaid, Original Application is disposed of with the direction to the respondents to consider the claim of the applicant for division of family pension in equal share (i.e. 50% each) between the wife and mother of deceased soldier. The respondents are further directed to take appropriate decision expeditiously, preferable within four months from the date of receipt of certified copy of this order.</i></p>

12. *No order as to costs."*

5. This execution application has been filed for implementation of order dated 02.03.2021 passed in O.A. No. 285 of 2013. After lapse of three years, the respondents have filed affidavit of compliance on 24.04.2024 in which it is stated that division of ordinary family pension between widow and mother is contrary to the provisions illustrated in Pension Regulations for the Army, 2008 (Part-I). It is further stated in the affidavit that rules do not permit to divide family pension between mother and widowed daughter-in-law. It is also mentioned in the reasoned and speaking compliance order dated 06.11.2023 passed by Officer-in-Charge, AMC Records that order dated 02.03.2021 was passed only to consider the claim of the applicant for division of family pension in equal share between wife and mother of the deceased soldier.

6. Objection to compliance affidavit has been filed on behalf of the applicant in which it is stated that the respondents have not implemented the order of this Tribunal in letter and spirit. It is further stated that the respondents have only taken cognizance of Para 11 of the order dated 02.03.2021 but no cognizance has been taken to Para 7 and 10 of the order which clearly speaks about division of equal family pension between the applicant and widow of the deceased soldier.

7. Respondents were directed to file reply to objection raised on behalf of the applicant, which has not been filed.

8. Having gone through order dated 02.03.2021, we find that there is no ambiguity in the order. The applicant has been clearly held entitled for a share of family pension. The order was passed for division of equal share of family pension between the applicant and her widowed daughter-in-law, which has not been complied with relying upon various provisions of Pension Regulations, Circulars and other letters. The respondents have ignored the contents of paras seven and ten of the order dated 02.03.2021 while passing order dated 06.11.2023. In case the respondents were aggrieved by the order, they may challenge it before appropriate authority. It is noticed that the respondents have not contested the order before any forum.

9. In view of the above, the respondents are directed to comply the order passed by this Tribunal within four weeks, failing which to secure ends of justice coercive action shall be initiated in terms of Rule 25 of the AFT (Procedure) Rules, 2008 against the respondents.

10. List on **01.04.2025**.

**(Lt Gen Anil Puri)**  
**Member (A)**

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

*rathore*

4. Section 29 of the Act inter alia provides for execution of the orders of the Tribunal, which reads: 29. "Execution of order of the Tribunal. - Subject to the other provisions of this Act and rules made thereunder, the order of the Tribunal disposing of an application shall be final and shall not be called in question in any Court and such order shall be executed accordingly. 5. The aforesaid Section has clearly provided that the order of the Tribunal disposing of an application shall be final and shall not be called in question in any Court and such order shall be executed accordingly. But Section 29 is silent as to how the order is to be executed. The procedure as to how the order is to be executed, has been provided in D.No.254 of 2013 - 4 - To our mind, as and when any order is passed by the Tribunal under Section 14 or 15 of the Act, the same can be enforced, if not already implemented, according to the aforesaid Rule 25. While giving effect to its order, it is open to the Tribunal to adopt such legal recourses as may be expedient for the enforcement of its order. In doing so, it can even adopt any of the recourses, ordinarily observed by the Civil Court in executing its decrees under Order XXI of the Code of Civil Procedure. 6. In this view of the matter, it can be easily held that the inherent power conferred on the Tribunal by the aforesaid Rule has no limits and D.No.254 of 2013 - 5 - can be exercised in a given situation towards attachment and sale of the properties of the person against whom the order is to be implemented and even responsible officer or officers can be detained in civil prison after providing him or them an opportunity of hearing. Apart from these two recourses such other legal recourses as may be considered necessary and expedient by the Tribunal to enforce its order can also be adopted. 7. In view of the aforesaid, the application for initiating criminal contempt proceedings against the respondents is not maintainable. The same shall be returned to the applicant. It will, however, be open to the applicant to present a fresh application according to

the aforesaid provisions of Section 29 read with the aforesaid Rule 25 for the enforcement of the order dated 10th October, 2012. 8. No order as to costs. 9. Issue free copies of this order to both side. Sd/- Sd/- LT. GEN. THOMAS MATHEW, JUSTICE SHRIKANT TRIPATHI, MEMBER (A) MEMBER (J) (true copy) pb D.No.254 of 2013 - 6 -