

**Reserved
Court No. 1**

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 257 of 2016

Monday, this the 22nd day of April, 2019

Hon'ble Mr. Justice SVS Rathore, Member (J)

Hon'ble Air Marshal BBP Sinha, Member (A)

Smt Bittan Devi, widow of No. 15124675A Gnr Rajesh Kumar, resident of village Jaisinghpur, post Lakhanpur, Tehsil Kayamganj, district Farrukhabad (UP) 209502

.....Applicant

Counsel for the Applicant: **Shri VK Pandey, Advocate**

Versus

1. Union of India, through Secretary, Ministry of Defence, AHQ DHQ, New Delhi – 11.
2. Officer-in-Charge Arty Records, Nasik Road Camp, PIN 900482, c/o 56 APO.
3. Commanding Officer, 97 - Field Regiment PI-925797, c/o 56 APO.
4. Commanding Officer, Training & S.P. Regiment, School of Arty, Devlali, PIN-4224001.
5. Director General of Artillery (Arty-10) General Staff Branch IHQ of MoD, DHQ, PO New Delhi.
6. SHO, PS Kayamganj, Farrukhabad.
7. S.P., Farrukhabad.

.....Respondents

Ld. Counsel for the Respondents: **Shri Shyam Singh
Addl. Central Govt. Counsel.**

ORDER

“Per Hon’ble Air Marshal BBP Sinha, Member (A)”

1. This application under Section 14 of the Armed Forces Tribunal Act, 2007 has been filed by the applicant for the following prayers;-

“(i) That this Hon’ble Tribunal may kindly be pleased to direct the opp parties concerned to pay the special family pension to the applicant since due date i.e. 5.3.2003 to onwards along with other consequential benefits with 18% interest from due date to actual date of its payment.

(ii) Any other order or direction which this Hon’ble Tribunal may deem just and proper be passed in favour of the applicant.

(iii) Allow the O.A. with costs.

2. As per office report, the present O.A. has been filed with delay of 12 years, 04 months and 11 days. Since the issue involved in the OA relates to pension which involves recurring cause of action, the delay was condoned vide order dated 29.09.2016. The parties have exchanged pleadings.

3. Brief facts of the case are that the husband of the applicant (No. 15124675A Gnr Rajesh Kumar) was enrolled in the Regiment of Artillery on 11.08.1995. On completion of his training, he was posted to 97, Field Regiment. Subsequently, he was sent on Extra Regimental Employment (ERE) with School of Artillery, Devlali with effect from 14.12.2002. While being posted there, he was found to be absent from the Unit Lines with effect from 05.03.2003. Apprehension roll was issued vide letter dated 07.03.2003. Since he did not rejoin voluntarily nor could be apprehended by the police, he was declared as a deserter with effect from 05.03.2003 after holding a Court of Inquiry. After completion of three years, as a deserter, he was dismissed vide order dated 20.04.2006 under Section 20 (3) of the Army Act.

4. It is worth mentioning that as per the service records, said Rajesh Kumar was married to the applicant according to Hindu rites and had nominated her as next of kin (NOK) in the official records.

5. It is clearly emerging from the records that after alleged desertion, Smt. Bittan Devi (applicant) has initially sent a series of letters to the Unit and thereafter to Artillery Records informing that her husband has not reached home and inquiring the whereabouts of her husband. She has also approached the police station Kayamganj, district Farrukhabad on 13.08.2006 to lodge an FIR regarding missing of her husband. The police received her complaint and issued a receipt of it on the copy of her application, a copy of which has been annexed as Annexure-6 to the O.A. The lady moved several representations to the Records and other organizations under the respondents, but no meaningful response was made by the respondents in terms of any initiative to establish the truth about her husband being “missing presumed dead” or taking any proactive action to expedite the police report on the matter. They kept stating that her husband is a deserter and has been dismissed from service on 20.04.2006. It is in this context that the applicant has filed this O.A.

6. Submission of learned counsel for the applicant is that despite the applicant as the wife of the soldier in question, repeatedly pleading with respondents to trace her missing husband since 05.03.2003, the respondents have taken no meaningful action on her complaint and to establish the facts about her claim of her husband being missing as per extant Government Orders on the issue of declaring a soldier “missing presumed dead”. He

contended that earlier in such cases, the families had to wait for seven years to declare a person “missing presumed dead” for family pension, but the Government as per its benevolent provisions, introduced a policy vide Ministry of Defence Letter No. 12(16)/86D/(Pension/Services) dated 03.06.1988 amended from time to time in 2013 and 2014. He further submitted that vide the amended beneficial provisions of this letter, the family/NOK of missing soldier did not have to wait for seven years and based on an enquiry, the family pension of “missing presumed dead” employee could start receiving family pension within six months of “missing presumed dead” case. He pleaded for the husband of the applicant to be declared “missing presumed dead” under Section 108 of the Indian Evidence Act because the respondents have failed to take action as required by the Government of India benevolent letter on this matter since last about 16 years. He pleaded for grant of family pension to the applicant.

7. **Per contra**, the contention of learned counsel for the respondents is that the applicant had absented himself without sanctioned leave and did not rejoin his duties, as such apprehension roll was issued and his NOK were accordingly informed. Since the applicant did not rejoin, as such, he was declared a deserter after conducting a Court of Inquiry and after the waiting period of three years, he was dismissed from service. He admitted that the wife, who is now the applicant, was corresponding with the Records within about a year of the absence of her husband trying to find out the whereabouts of her husband and claiming that he is not a deserter. However, he claims that she was advised to lodge an FIR which she has

failed to lodge and hence no follow-up action could be taken in this case. He further submitted that based on a representation of the lady received through IHQ of MoD dated 30.01.2015, the applicant was again advised to produce original copy of FIR with Serial No. and date, non-traceable report from police authorities and Indemnity Bond duly signed by two sureties and witnesses. He further submitted that the original copy of investigation report dated 17.07.2015 of police station Kayamganj and the Superintendent of Police, Farrukhabad, was received about the deserter husband of the applicant by Records, but the same was sent by Artillery Records to School of Artillery, Devlali vide letter dated 18.09.2015 for their further examination and action. He concluded that since the lady had failed to lodge an FIR and submit the documents required, her husband could not be declared “missing presumed dead” and pleaded for dismissal of the O.A.

8. We have heard learned counsel for the parties at length and have perused the record in detail.

9. In the backdrop of the case as narrated above, the questions which arise for determination in this case are twofold:

- (i) Whether the case of the husband of the applicant, who is missing since 2003, is a case of “missing presumed dead” in view of Section 108 of the Indian Evidence Act or a case of a desertion?
- (ii) If it emerges that he is a missing case, then what is the date of his “missing presumed death”?

10. We are clear that Government accepts that a Government servant can be missing from duty due to certain unfortunate circumstances like:-

(a) An accident while travelling at place of duty or during leave whereby he can die accidentally because of following facts:

- (i) Get washed away in flash floods;
- (ii) get badly mutilated in a road/rail accident/fire/explosion whereby the body could get disposed of as unidentified; and
- (iii) become victim of criminal gangs which indulge in human organs trading resulting in non-tracing/non identification of dead body.

11. Thus, the Government as a beneficial measure for the first time vide Mod Letter No. 12(16)/86/D(Pen/Sers) dated 3rd June, 1998 issued following benevolent orders:-

*“No. 12/(16)/86/D/(Pen/Sers
Government of India/Bharat Sarkar
Ministry of Defence/Raksha Mantralaya
New Delhi, Dated 3rd June, 1998*

To

*The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of the Air Staff*

Subject **RELEASE OR DCRG, LEAVE ENCASHMENT
AND FAMILY PENSIONIN RESPECT OF
ARMED FORCES PERSONNEL WHO ARE
MISSING**

Sir’,

A number of cases have been referred to this Ministry for grant of terminal and other pensionary benefits to the families of service personnel who have suddenly disappeared while operational and non-operational service and whose whereabouts are not known. At present all such cases are considered on merits. In the normal course unless a period of 7 years has elapsed from the date of disappearance of the employee, he cannot be deemed to be dead and therefore the retirement benefits cannot be paid to the family. This principle is based on Section 108 of the Indian Evidence Act which provides that when the question is whether the man is alive or dead and it is proved that he has not been heard of for 7 years by those who would naturally have heard of him had he been alive, the burden of proving that he is alive is shifted to the person who affirms it. This has resulted in great hardship and distress to the families who have to wait for 7 years before any terminal benefits could be paid to them.

2. *The President is therefore pleased to decide that when a member of the Indian Armed Forces is declared missing while in service the family*

will be paid the following benefits subject to adjustment of outstanding dues in respect to the missing personnel, if any:-

- (a) Immediately after the date of declaration of disappearance, the amount of salary due, leave encashment due and DSOP/AFPP Fund amount subject to nomination made by the missing personnel.
- (b) After the lapse of one year from the date of declaration of disappearance/presumption of death

Family pension/DCRT etc. as admissible in normal conditions.

3. The above benefits may be sanctioned after observing following formalities:-

(i) The family must lodge a report with the concerned police station and obtain a report that the employee has not been traced after all efforts had been made by the police.

(ii) The claimant will be required to furnish an indemnity bond with two solvent sureties to the effect that all payments thus made will be recovered from the amount due to the person if he/she reappears and makes any claims.

4. The family can apply to the concerned authority for grant of family pension and DCR Gratuity after one year from the date of declaration of disappearance of the service personnel in accordance with the procedure for sanction of family pension and DCR Gratuity. In case the disbursement of DCR Gratuity is not effected within 3 months of the date of applicant, the interest shall be paid at the rates applicable and responsibility for the delay fixed.

5. In the case of officers, the respective Branch/Dte at Service HQrs and in the case of JCOs/OR and equivalent in Navy and Air Force, their respective Records Offices will process such cases with CDA (P)/PAO(Navy)/CDA(Air Force).

6. The provisions of this letter take effect from 29th August 1986.

7. This issues with the concurrence of the Finance Division of this Ministry vide their U.O. No. 802-Pen of 1988.

Yours faithfully
Sd/- xx xx

(Y.K.TALWAR)

DESK OFFICER”

12. We have also noted that the Union Government has continuously improved upon the beneficial nature of the initial policy issued in 1988 through a series of subsequent amendments whereby by the period of

waiting for family pension has been reduced to 06 months from one year and it has been clarified that lodging report to Police does not mean that it has to be an FIR only; it could be a 'daily diary or general diary' entry by the Police. In this context GOI MoD letter No. 1(1)2012-D (Pension/Policy) dated 05.06.2013 and MoD letter No. 1 (1) 2010-D (Pension/Policy) dated 23.12.2014 and PCDA (P) Circular No. 498 dated 08.08.2013 and PCDA (P) Circular No. 538 dated 06.02.2015 refers. Relevant portions of the Government Letters (supra) are as follows:-

MoD letter No. 1 (1) 2010-D (Pension/Policy) dated 23.12.2014

“3. In the case of a missing Armed Forces Personnel/pensioner/family pensioner, the family can apply for the grant of family pension, amount of salary due, leave encashment due and the amount of DSOP/AFPP fund and gratuity (whatever has not already been received) to the IHQ/Record office concerned, where the officers and JCOs/Ors in Army and equivalent in Navy and Air Force, has last served, six months after lodging of police report. The family pension and/or retirement gratuity may be sanctioned by the respective Pension Sanctioning Authority's (PSAs) after observing the following formalities:

- (i) *The family must lodge a report with the concerned Police station and obtain a report from the police, that the Armed Forces Personnel/pensioner/family pensioner has not been traced despite all efforts made by them. The report may be a First Information Report or any other report such as a Daily Diary/General Diary Entry, filed by the Police authorities concerned, as per the practice prevalent in the State/UT.*
- (ii) *.... ”*

PCDA (P) Circular No. 538 dated 06.02.2015:-

“2. In the case of a missing Armed Forces Personnel/Pensioner/Family pensioner, the family can apply for the grant of family pension, amount of salary due, leave encashment due and the amount of DSOP/AFPP fund and gratuity (whatever has not already been received) to the IHQ/Record Office concerned, where the officers and JCOs/Ors in Army and equivalent in Navy and Air Force, has last served, six months after lodging of police report. The family pension and/or retirement gratuity may be sanctioned by the respective Pension Sanctioning Authority's (PSAs) after observing the following formalities:

- (ii) *The family must lodge a report with the concerned Police station and obtain a report from the police, that the Armed Forces Personnel/Pensioner/Family pensioner has not been traced despite*

all efforts made by them. The report may be a First Information Report or any other report such as a Daily Diary/General Diary Entry, filed by the Police authorities concerned, as per the practice prevalent in the State/UT

(iii)

13. As far as this specific case is concerned, the important facts which have emerged are as follows:

(a) Husband of the applicant was enrolled in the Indian Army on 11.08.1995 and he was declared a deserter with effect from 05.03.2003 as he went missing from his Unit lines.

(b) As per service records, the applicant is the legally wedded wife.

(c) In the counter affidavit it is clear that the Artillery Records received letter dated 01.03.2004 from the applicant stating that her husband has not reached home since long and a request was made by her to find the whereabouts of her husband.

(d) However, we find that there was no meaningful response from the respondents as per the Guidelines issued by the Government on “missing presumed dead” policy of 1988. The respondents have continuously stated that the husband of the applicant has been declared a deserter and dismissed after three years of desertion. However, they have failed to extend any initiative to find out whether it is a case of “missing presumed dead”.

(e) We find that the applicant has approached police station Kayumganj, district Farrukhabad in 2006 for lodging an FIR about

the missing status of her husband. However, the police of said police station have given her a stamped and signed receipt of her complaint on the copy of her complaint application. The aforesaid letter of MoD requires only information to be given to the Police. It nowhere states that an FIR must be lodged. FIR is lodged when there is allegation of cognizable offence. In the facts of the instant case, the applicant admittedly gave information that her husband is missing. So the requirement of the aforementioned letter stands fulfilled. The argument of learned counsel for the respondents that FIR was not lodged is the result of misreading of the letter of MoD.

(f) We have noted that the applicant is an illiterate lady who can barely write her name. In this situation, no meaningful advice has been given to the lady by the Records and all correspondence by the Records is purely bureaucratic lacks clarity and empathy.

14. We have also taken note of the fact that the respondents have taken no immediate action to initiate an inquiry or take any other action in the matter of disappearance of applicant's husband despite several representations by the lady. As per the pleadings on record, there is hard evidence of the lady approaching the respondents repeatedly including the Chief of the Army Staff through multiple representations as also under the Right to Information Act, news paper advertisements, approach to the concerned police station to inquire about the whereabouts of her husband, but we are constrained to note with concern that the respondents have failed to provide any meaningful guidance or help to the distressed lady for the

last 16 years. We find that the respondents are only writing meaningless letters to each other with no real intent to help the lady due to following reasons:-

(a) It is very clear from the original policy letter issued by Government in 1988 and subsequent improvements from time to time, that an FIR is not a must, but an authenticated general diary entry by police authorities is good enough to initiate further action on this matter. This provision has been introduced obviously because of the general reluctance of police to register an FIR. In this case, the lady has given written information to the Police in 2006 and has filed the authenticated copy of police station receipt of complaint in the OA, but the respondents are till date, counter affidavit included, taking a stand that no FIR has been filed, hence the OA should be dismissed.

(b) It is a fact that the lady is illiterate and the matter pertained to an Army Jawan. However, it is very clear that the Records Office has failed to extend a helping hand or provide any meaningful advice to the wife of its own employee in dealing with this matter properly. They have restricted themselves to writing meaningless and bureaucratic letters to the lady despite having a plethora of Army related Welfare Institutions and Solider Sailor Boards in the entire country. It is apparent that the Army will have to work on a war footing to make its Records Offices more friendly towards its Jawans' Welfare.

(c) It is also very clear that the police have already submitted a report in 2015 on the matter of desertion/missing aspect of applicant's husband which apparently indicates that his whereabouts are not known. However, the Records Office has washed off its hand from any decision making in this matter even at this belated stage of 2015 and sent the report to Artillery School, Deolali for the needful. We fail to understand as to how a Unit after 12-13 years of a missing/desertion incident of its Jawan can take a meaningful action for declaring a soldier as missing when all the relevant details are with the Record Office. In any case, it is clear that even in 2015 the Artillery Records has shied away from giving clear orders for deciding the case as per Government policy letter of 1988 despite having clear knowledge of police complaint in 2006 by the applicant and the availability of police report of 2015.

(d) Even after the applicant has filed an O.A. in this Tribunal in 2016, the Records Office has done nothing except stating that matter is being processed at Artillery School. This submission makes no sense to us and gives us a clear indication that the Records Office neither has the understanding of such sensitive matters nor the ability to handle such unfortunate cases involving the illiterate and helpless wives of Jawans.

15. Considering all the factual evidence on record, and the ignorance and illiteracy level of the applicant, and the fact that there is adequate evidence on record to show that the lady being illiterate has done everything humanly

possible to report to the respondents that her husband is not a deserter and that he is missing case, we are of the considered opinion that the concerned Record Office of the respondents did not have the competence and the empathy to extend the beneficial provisions of the Government to its own brethren in Uniform. It seems that the Record Offices of the respondents will have to travel a long way before they acquire the requisite expertise and sensitivity to handle such matters. It is for the Army to take internal corrective measures and issue corrective orders in such matters which relate to the welfare of Personnel in Green Uniform and their dependents. We have no doubt that the Record Office in this case has acted more as an impediment rather than extending a helping hand to the wife of a soldier in distress.

16. Hon'ble the Apex Court in the case of *LIC of India vs. Anuradha*, reported in (2004) 10 SCC 131, in para-12, 13, 14 and 15 have observed thus:

“12. Neither Section 108 of Evidence Act nor logic, reason or sense permit a presumption or assumption being drawn or made that the person not heard of for seven years was dead on the date of his disappearance or soon after the date and time on which he was last seen. The only inference permissible to be drawn and based on the presumption is that the man was dead at the time when the question arose subject to a period of seven years absence and being unheard of having elapsed before that time. The presumption stands un-rebutted for failure of the contesting party to prove that such man was alive either on the date on which the dispute arose or at any time before that so as to break the period of seven years counted backwards from the date on which the question arose for determination. At what point of time the person was dead is not a matter of presumption but of evidence, factual or circumstantial, and the onus of proving that the death had taken place at any given point of time or date since the disappearance or within the period of seven years lies on the person who stakes the claim, the establishment of which will depend on proof of the date or time of death.

13. A presumption assists a party in discharging the burden of proof by taking advantage or presumption arising in his favour dispensing

with the need of adducing evidence which may or may not be available. Phipson and Elliott have observed in 'Manual of the Law of Evidence' (Eleventh Edition at p.77) that although there is almost invariably a logical connection between basic fact and presumed fact, in the case of most presumptions it is by no means intellectually compelling. In our opinion, a presumption of fact or law which has gained recognition in statute or by successive judicial pronouncements spread over the years cannot be stretched beyond the limits permitted by the statute or beyond the contemplation spelled out from the logic, reason and sense prevailing with the Judges, having written opinions valued as precedents, so as to draw such other inferences as are not contemplated.

14. *On the basis of the above said authorities, we unhesitatingly arrive at a conclusion which we sum up in the following words. The law as to presumption of death remains the same whether in Common Law of England or in the statutory provisions contained in Sections 107 and 108 of the Indian Evidence Act, 1872. In the scheme of Evidence Act, though Sections 107 and 108 are drafted as two Sections, in effect, Section 108 is an exception to the rule enacted in Section 107. The human life shown to be in existence, at a given point of time which according to Section 107 ought to be a point within 30 years calculated backwards from the date when the question arises, is presumed to continue to be living. The rule is subject to a proviso or exception as contained in Section 108. If the persons, who would have naturally and in the ordinary course of human affairs heard of the person in question, have not so heard of him for seven years the presumption raised under Section 107 ceases to operate. Section 107 has the effect of shifting the burden of proving that the person is dead on him who affirms the fact. Section 108, subject to its applicability being attracted, has the effect of shifting the burden of proof back on the one who asserts the fact of that person being alive. The presumption raised under Section 108 is a limited presumption confined only to presuming the factum of death of the person whose life or death is in issue. Though it will be presumed that the person is dead but there is no presumption as to the date or time of death. There is no presumption as to the facts and circumstances under which the person may have died. The presumption as to death by reference to Section 108 would arise only on lapse of seven years and would not by applying any logic or reasoning be permitted to be raised on expiry of 6 years and 364 days or at any time short of it. An occasion for raising the presumption would arise only when the question is raised in a Court, Tribunal or before an authority who is called upon to decide as to whether a person is alive or dead. So long as the dispute is not raised before any forum and in any legal proceedings the occasion for raising the presumption does not arise.*

15. *If an issue may arise as to the date or time of death the same shall have to be determined on evidence-direct or circumstantial and not by assumption or presumption. The burden of proof would lay on the person who makes assertion of death having taken place at a given date or time in order to succeed in his claim. Rarely it may be permissible to proceed on premise that the death had occurred on any given date before which the period of seven years' absence was shown to have elapsed."*

17. In the instant case, the husband of the applicant was absent from service with effect from 05.03.2003 and thereafter the applicant is continuously claiming that her husband is missing. Therefore, in view of their own letters, the respondents were under a legal obligation to extend the pensionary and other benefit to the applicant, but it is really surprising that even after repeated claims of the applicant that her husband is missing, no meaningful action was taken by the respondents as per Government letter of 1988 (supra) on this issue and applicant's husband was dismissed from service after three years on the ground of desertion. Order of dismissal on the ground of desertion was passed by the respondents on a presumption that applicant's husband was alive. Section 108 of the Indian Evidence Act casts burden of proving that he was alive, was on the respondents while they have utterly failed to produce even an iota of evidence that the applicant was alive at the time when order of dismissal was passed. In these circumstances, we find no option but to hold that the respondents had to presume death of applicant's husband after expiry of period of one year or six months, as the case may be, as per their own policy, but instead of taking action to extend benefit of such welfare policy, the respondents have dismissed him from service after lapse of three years, and therefore, the husband of the applicant must be "missing presumed dead" when the order of dismissal was passed which renders the order of dismissal unsustainable in law.

18. We have noted that there is very clear and specific evidence available before us indicating that the husband of the applicant has never been seen or heard by anyone after 05.03.2013, i.e. after his deemed absence from the Unit. This aspect is clearly emerging from the relentless representations of the applicant after 05.03.2013, the report of village Sarpanch, and the police report available with the respondents. Thus, considering the specific evidence in this case and the fact that the applicant's husband, as a soldier, was away from home and on military duty, we are of the considered opinion that in the interest of substantive justice, and under the provisions of Section 108 of the Indian Evidence Act, the husband of the applicant is to be "presumed dead" six months after the first complaint by the applicant to Artillery Records Office. Since the respondents are admitting that their Records Office received the first letter from the applicant inquiring the whereabouts of her husband, and his being a case of missing and not desertion on 01.03.2004, therefore, the date of death of applicant's husband is to be deemed as 01.09.2004. Hence the action taken by the respondents to dismiss him from service as deserter vide order dated 20.04.2006 is null and void because it would tantamount as action taken against a dead person. Consequently, the applicant is entitled to receive family pension from 01.09.2004.

19. It is trite law that claim for pension is based on continuing wrong and the relief can be granted if such continuing wrong creates a continuing source of injury. In the case of *Shiv Dass vs. Union of India*, reported in 2007 (3) SLR 445 their Lordship's of Hon'ble Apex Court have held that if

a petition for pension (family pension in this case) is filed beyond a reasonable period, the relief prayed for may be restricted to a reasonable period of three years.

20. Considering all issues, we are of the opinion that this is a good example for granting cost to the applicant for the mental pain and agony that the applicant has suffered for last 16 years on account of acts of omission and commission on the part of the respondents whereby she has been denied the benevolent provisions of Government Order and no meaningful action has been taken by respondents on the lines of benevolent Government policy dated 03.06.1988.

21. In view of the above, we are of the view that the case is liable to be **allowed** with exemplary cost.

22. The O.A. is **partly allowed** accordingly. The impugned orders are set aside. The husband of the applicant No. 15124675-A Gnr Rajesh Kumar is to be “presumed dead” with effect from 01.09.2004 and the applicant is entitled to ordinary family pension and all other consequential benefits with effect from 01.09.2004. Though the applicant is entitled to ordinary family pension with effect from 01.09.2004, but due to law of limitation, she is entitled to receive arrears of ordinary family pension from three years prior to the filing of the O.A. The O.A. has been filed on 18.01.2016. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order failing which the respondents will have to pay interest @ 9% on the amount accrued from due date till the date of actual payment.

23. We are also of the view that it is a fit case where cost must be imposed on the respondents for denying the benefit of the benevolent Government policy of 1988 for several years to the applicant.

We quantify the cost as Rs. One Lakh which shall be deposited by the respondents in this Tribunal within one month and will be released through cheque in favour of applicant Smt. Bittan Devi forthwith.

24. We leave it open to the respondents to recover the cost from the salary of concerned personnel of the Records Office concerned who are accountable for their acts of omission and commission in denying family pension to the applicant since last 16 years despite clear benevolent orders of Government on this matter. We sincerely hope that the respondents will take substantial steps to improve the functioning and orientation of its Records Offices on such sensitive matters.

25. Registry shall send a copy of this order to the Adjutant General, Army Headquarters forthwith.

(Air Marshal BBP Sinha)
Member (A)

(Justice SVS Rathore)
Member (J)

Dated: April 2019
anb