

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW**

Original Application No. 250 of 2020

Wednesday, this the 25th day of August, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

No. 6462412-M Smt Prabhawati Widow of Late L/Nk (SHGD)
Mangal Prasad Verma, R/O Village & Post-Kurem, Tehsil-Rasra,
Distt-Balia, Pin-221712.

.... Applicant

Ld. Counsel for the: **Shri Parijaat Belaura**, Advocate.
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence,
New Delhi.
2. Chief of Army Staff, Integrated Head Quarters, Ministry of
Defence, South Block, New Delhi.
3. Officer-in-Charge, Records ASC (South), Pin-900493, C/O
56 APO.
4. The Principal Controller of Defence Account (Pension),
Draupadi Ghat, Allahabad (UP).

... Respondents

Ld. Counsel for the: **Shri Rajiv Pandey**, Advocate
Respondents. Central Govt Counsel.

ORDER

1. Brief facts of the case are that No 6462412H L/Nk Mangal Prasad Verma was enrolled in the Army on 05.05.1972. While serving with 516 ASC Battalion he was granted 62 days annual leave for the period 07.01.1983 to 09.03.1983. On 28.01.1983 he died around 1125 hrs at Government Hospital, Rasra, Ballia, Uttar Pradesh due to 'CR Failure'. After death, applicant was granted Ordinary Family Pension vide PPO No. F/NA/3800/83 dated 15.11.1983 and applicable terminal death benefits were also paid to her. Special Family Pension claim was rejected vide order dated 09.09.1983. Thereafter, applicant preferred first appeal dated 03.12.1983 which was also rejected vide order dated 31.05.1985. Feeling aggrieved applicant has filed this O.A. for grant of Special Family Pension.

2. Learned counsel for the applicant submitted that, admittedly, applicant's husband was on annual leave for the period 07.01.1983 to 09.03.1983 when he died in a Govt Hospital due to CR failure. He further submitted that in view of this Tribunal's judgment in the case of **Smt Manoj Singh vs Union of India & Ors**, delivered on 02.08.2016 in O.A. No. 125 of 2015, applicant is entitled to Special Family Pension as in that case a similar matter was decided and applicant was granted Special Family Pension. Thus, he submitted that applicant's case being fully covered with above judgment, she is entitled to grant of Special Family Pension.

3. Per contra, learned counsel for the respondents submitted that it is not disputed that husband of applicant died on

28.01.1983 due to CR failure while on annual leave but contended that at the time of death, he was not on any type of military duty which could entitle his NOK for grant of Special Family Pension. His further submission is that Special Family Pension is granted to NOK of a deceased soldier if his death is due to or hastened by a wound, an injury or a disease which was attributable to military service or the aggravation by military service of a wound, injury or disease which existed before or arose during military service. His submission is that Mangal Prasad Verma, applicant's husband, died due to CR Failure while on annual leave, therefore his death is not attributable to military service. However, for grant of Special Family Pension it is not only required that armed forces personnel should be on duty, but there must be some causal connection also between the injury/death and military service. He further submitted that unless injury/death sustained has causal connection with military service, NOK of armed forces personnel cannot be allowed Special Family Pension.

4. We have heard learned counsel for the parties and perused the records.

5. Contention of learned counsel for the applicant that the present case is covered with the Hon'ble Apex Court judgment delivered in the case of **Smt Manoj Singh** (supra), is not correct on the ground that in aforesaid case applicant's husband died due to Ischemic Heart Disease (IHD) on duty. In the instant case, applicant's husband died due to Cardiac Rehabilitation (CR) failure while on leave and the said death cannot be attributable to

military service as he was not performing any military duty at the time of death. Since there is no causal connection between death and military duty, no case of Special Family Pension is made out.

6. In view of the facts and circumstances of the case, we have observed that applicant's husband died on 28.01.1983 due to CR failure while on annual leave. Since death of applicant's husband was due to CR failure, no case for Special Family Pension is made out as the death of applicant's husband cannot be attributed to military service nor can be said to have taken place due to aggravation of any wound, injury or disease which existed before or arose during military service.

7. Thus, the result is that applicant has not been able to establish that death of applicant's husband was attributable to military service. The deceased soldier was on annual leave and while availing leave on 28.01.1983, he died due to heart failure when not performing any military duty.

8. The conspectus of above observation is that applicant has not been able to make out a case for grant of Special Family Pension.

9. The O.A. has no merit and is accordingly **dismissed**.

10. No order as to costs.

11. Pending applications, if any, are disposed of.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: 25th August, 2021
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RESERVED

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

O.A. No. 250 of 2020

Smt Prabhawati
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.08.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Judgment pronounced. Original Application is dismissed. For order, see our judgment passed on separate sheets. Misc. Applications, pending if any, shall be treated as disposed of accordingly.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A) rathore</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p>