

E-Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 27 of 2021**Thursday, this the 26th day of August, 2021**“Hon’ble Mr. Justice Umesh Chandra Srivastava (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Smt. Versha Singh, W/o No. 14941489L Late Sep Gyanendra Singh, R/o Vill- Behta Nathai Singh, PO- Korari Kala, Tehsil & Distt – Unnao (U.P.), Pin- 209801.

..... Applicant

Counsel for the Applicant : **Shri SK Singh, Advocate**

Versus

1. Union of India through Army Chief, Sena Bhawan, New Delhi.
2. Director General of Artillery (Arty-10) General Staff Branch, Integrated HQ of MoD, DHQ PO New Delhi - 110011.
3. Commanding Officer, Signal Records, Jabalpur.
4. Office of the Chief Controller of Defence Accounts (Pension), Draupadighat, Allahabad-211014.
5. Senior Record Officer, Signal Abhilekh Karyalaya, Signal Records, Post Bag No. 6, Jabalpur.
6. Smt Madhuri Devi, W/o Late Surjan Singh, R/o Vill- Behta Nathai Singh, PO- Korari Kala, Tehsil & Distt – Unnao (U.P.), Pin- 209801
7. Branch Manager, State Bank of India, Branch Office- Bethar (Achalganj), District – Unnao.

.....Respondents

Counsel for the Respondents : **Shri Yogesh Kesarwani
Central Govt. Counsel**

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

1. The instant Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 with the following prayers:

- “(i) Hon’ble Tribunal may kindly please to quash/set aside the impugned order dated 31.01.2019 passed by the opposite party regarding inquiry for division in family pension between applicant and her mother in law i.e. Madhuri Devi as contained as annexure no. 1 with O.A.*
- (ii) To issue direction to army authorities concern to provide details of the dues and service benefits of the Late Gyanendra Singh to the applicant and also provide family pension as applicable under army legal provision to the applicant only in interest of justice.*
- (iii) To issue or direction to the SBI bank authorities/manager of the Dist- Unnao for the explanation as well as to initiate inquiry under which provision Rs. 3,77,827/- has been deducted from the account of applicant who is widow without any notice and information/knowledge of the applicant.*
- (iv) To issue order or direction to army authorities concern to provide safety and security of the life of the applicant and her younger daughter as well as share of the agriculture land property belongs to the name of Late Gyanendra Singh in favour of the applicant from the unlawful clutch of Madhuri Devi and her remaining five sons.*
- (v) To award the cost of the petition.*

2. Respondent No 2, 3 and 5 have been wrongly impleaded in the Original Application as they have nothing to do with the subject matter of the application. Late Sep Gyanendra Singh belongs to Mech Inf, whereas respondent No 2, 3 and 5 are Director General of Artillery, Commanding Officer, Signal Records, Jabalpur and Senior Record Officer, Signal Records, Jabalpur respectively.

3. Facts giving rise to Original Application in brief are that husband of applicant was enrolled in the Army on 24.10.2009. Marriage of the applicant was solemnized with Gyanendra Singh as per Hindu rituals and her name is recorded in service documents of her husband. Husband of the applicant met with a road accident and died 10.09.2018. Ordinary family pension Rs. 10,643/- was granted to the applicant from 11.09.2018 to 10.09.2028 which has been enhanced to Rs. 17,738/- with effect from 21.12.2018. A sum of Rs. 3,77,827/- has been deducted from the account of the applicant by Branch manager State Bank of India Branch office, Bethar, Unnao on 01.01.2019 for which applicant has lodged complaint with S.P. Police, District- Unnao as well as Lokpal Reserve Bank, Kanpur Nagar. Mother of the deceased soldier Smt Madhuri Devi has lodged complaint with army authorities for division of family pension between herself and the applicant. Army authorities are inquiring the matter for division of pension between Smt Madhuri Singh and the applicant. Being aggrieved, the applicant has filed instant Original Application.

4. Learned counsel for the applicant submitted that the applicant is surviving herself with young daughter namely Astha Singh aged about 2 years in very pathetic condition to face financial, emotional and social situation after death of her husband. She was granted Ordinary Family Pension Rs. 10,643/- which was enhanced to Rs. 17,738/-. In addition, she was granted Rs. 13,60,000/- in her State Bank of India, Achalganj Branch, District- Unnao, Account

Number – 11775018142 and no details of payment was given by the bank. State Bank of India, Unnao has deducted Rs. 3,77,827/- on 01.01.2019 from the account of the applicant for which applicant has lodged complaint with concerned authorities to enquire the matter and lodge case against the Bank authorities. Learned counsel for the applicant submitted that Smt Madhuri Devi (mother of the deceased soldier) have five sons who are employed and financially supporting her. In addition, Smt Madhuri Devi is having landed property yet she has lodged complaint for division of pension. Learned counsel for the applicant submitted that after death of her husband, applicant has shifted herself with her parents for safety and to provide better education to her daughter. Learned counsel for the applicant pleaded that army authorities have issued letter dated 31.01.2019 to enquire the matter for division of pension. He prayed that army authorities be directed to quash order dated 31.01.2019 regarding enquiry about division of family pension between mother and applicant and to grant her full family pension for her survival.

5. Per contra, learned counsel for the respondents submitted that it is not disputed that husband of applicant met with a road accident while on leave at his native place and died on 10.09.2018. Ordinary Family Pension was granted to the applicant i.e. Smt Versha Singh (wife) vide PPO No 174201801530/3000 dated 31.12.2018. Claim of the applicant for grant of Special Family Pension was rejected by the respondents vide letter dated 27.02.2019 on the ground that the circumstances of the death were not in any way related to military

duty. In addition to Ordinary family pension applicant was granted all her dues as per details given below:-

S.No	Benefits	Amount	Remarks
(a)	ACWE	50,000/-	
(b)	IRLA Bal	1,71,079/-	
(c)	AFPP Fund	88,301/-	
(d)	DLI	57,963/-	
(e)	AGI Death Benefit	40,00,000/-	Widow- 13,60,000/- Daughter- 13,20,000/- In Laws- 13,20,000/-
(f)	AGI Maturity	2,79,790/-	
(g)	DCRG	4,63,284/-	Paid to Widow
(h)	AWWA	15,000/-	
(j)	MIR Perpitual Fund	10,000/-	
(k)	Ordinary Family Pension	17,738/-	

6. Now by means of instant Original Application, the applicant has prayed for quashing the letter of inquiry regarding division of pension, to provide details of dues and service benefits of late Gyanendra Singh, to provide family pension, to issue direction to SBI Manager Unnao for explanation as well as to initiate inquiry under which provision Rs. 3,77,827/- has been deducted from the account of applicant without any notice to the applicant and to issue direction to army authorities to provide safety and security of life of the applicant and her daughter as well as share of the agricultural land belonging to the name of Late Gyanendra Singh.

7. Learned counsel for the respondents submitted that as per Para 174 of Regulations for the Army 1987 (Revised Edition) and IHQ of MoD (Army) directorate General of Recruiting letter No 64714.Misc/Pen/Rtg B (E) dated 02.04.2012, Mech Inf Records (MIR) has taken up case for division of pension with Zila Sainik Kalyan Evam Punarwas Karyalaya Unnao vide letter dated 31.01.2019, therefore prayer to set aside order dated 31.01.2019 is incorrect, baseless and against the rule position.

8. Learned counsel for the respondents submitted that all death benefits have been paid to the petitioner. Her claim for grant of Special Family Pension was rejected as the death of her husband was not connected to military duty. However, second appeal of the applicant is under consideration with Integrated Headquarters of Min of Def (Army), if the same is granted, it will be divided between applicant and mother of the deceased soldier and if rejected, the applicant required to be submitted her willingness certificate for grant of claim for a sum of Rs. 2,00,000/- out of ACW Fund from Integrated headquarters of Min of Def (Army). As regard inquiry from the Manager SBI, Unnao for the deduction of amount Rs. 3,77,827/- from the account of the applicant does not pertain to MIR, hence, same may be obtained from State Bank of India authority concerned. He submitted that safety and security of the petitioner and her daughter and share of the agriculture land property belonging to the name of Late Gyanendra Singh in favour of the applicant is beyond

the purview of Army authorities and she may approach civil administration for the purpose.

9. We have heard Shri SK Singh, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents and have also perused the record.

10. After having heard the submissions of learned counsel of both sides we found that certain facts are admitted to both the parties that husband of applicant met with a road accident and died on 10.09.2018.

11. As for as division of family pension and Special Family Pension is concerned, Regulation 130 of Pension Regulations for the Army 2008 (Part-I) states that *if the recipient of Special Family Pension refused to contribute proportionately towards the support of other eligible heirs in the family who were dependent on the deceased, or if the pension is in the name of the child but not devoted to the interest of the family generally, the competent authority may, on the basis of verification report rendered by the Zila Sainik Board and supported by the statement of any one of the under mentioned Local Civil Authorities, divide at his discretion, the special family pension among the eligible heirs of the deceased:-*

- i. Sarpanch of a Village.
- ii. Any serving or retired Gazetted Officer, Civil or Military, including a Junior Commissioned Officer.
- iii. Sub Post Master;
- iv. Qanungo or Patwari/Lekhpal;
- v. Sub Inspector of Police;

vi. *A member of Municipal Corporation or Committee or Zila Parishad/District Board;*

vii. *Panchayat President/ Village Munsif/Patel/Village Officer/ Panchayat Executive Officer.*

viii. *Member of Lok Sabha, Rajya Sabha, Vidhan Sabha or Vidhan Parishad.*

ix. *Oath Commissioner/ Notary Public.*

12. So far as investigation is concerned, as per Para 174 of Defence Service Regulations, Assistant Recruiting Officer is responsible for investigation of only disputed cases for division of family pension in respect of deceased soldier. Recruiting Officer is required to give a recommendation on the division of the family pension and the share of each claimant. The recommendation on division of family pension should be made by the Officer in Charge, Records who is competent authority for adjudicating such cases being conversant with the policy on the pensionary entitlements. The matter of division of pension is at investigation stage, no final decision has been taken into it, therefore, filing application to stop investigation being a premature case is not maintainable only final outcome of the investigation can be challenged.

13. We have considered the applicant's case in view of above guiding factors and we find that prayer of the applicant regarding money deduction from the account of the applicant, it is a dispute between bank and applicant and matter does not fall under service matters. Secondly, all the details of amount due and amount paid to the applicant have clearly been given in counter affidavit. Thirdly, Second Appeal of the applicant is pending with the respondents and

its result is not known, hence application for division of pension filed by the applicant is premature.

14. In view of the above, the Original Application is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

15. No order as to costs.

16. Pending applications, if any, are disposed of accordingly.

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

Dated: 26 August, 2021
Ukt/-