

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW,
CIRCUIT BENCH AT NAINITAL**

ORIGINAL APPLICATION No. 332 of 2018

Monday, this the 02nd day of August, 2021

**“Hon’ble Mr. Justice Umesh Chandra Srivastava (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Smt. Rita Rani, Wife of late Naik Baljit Singh (No. 9406461F), Village-
Mohabewala (Old Murgi Khana) Near Chandrabani Chowk, Dehradun
(Uttarakhand), PIN- 248002

..... Applicant

Counsel for the Applicant : **Shri Kishore Rai, Advocate
Holding brief of Shri Lalit Kumar,
Advocate**

Versus

1. Union of India through Secretary Ministry of Defence, South Block,
New Delhi – 110011.
2. The Chief Records Officer (CRO), Record Office, The 11 Gorkha
Rifles, PIN- 900450, C/o 56 APO.
3. The Principal Controller of Defence Accounts (Pension),
Draupadighat, Allahabad-211014.

.....Respondents

Counsel for the Respondents : **Shri Rajesh Sharma,
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) To quash and set aside the impugned order dated 04/05.10.2016 by which Respondent No 4 has illegally and arbitrarily rejected the claim of the applicant for grant of ‘Ordinary Family Pension’ (OFP).

(ii) To direct the respondents, particularly Respondent No 4 to grant the OFP to the applicant with effect from the date of her husband’s death i.e. 23rd April 2013.

(iii) To award interest @ 12% per annum on the arrears of family pension from the date of death of applicant’s husband i.e. 23 April 2013, till the date of actual payment of the same.

(iv) To award the cost of this O.A. And

(v) To grant any other relief or reliefs which the Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. Facts giving rise to Original Application in brief are that husband of applicant Naik Baljit Singh was enrolled in the Army on 13.11.1962 and was discharged from service on 01.02.1983. He was granted pension vide PPO No S/C/108/1983 dated 16.04.1983. He was married to Smt Lila Devi (his first wife) on 10.04.1963. There was no issue to Lila Devi from his wedlock. Smt Lila Devi had eloped with another man on 05.06.1971 vide Gorkha Rifles Part II Order No 0/0093/0017/1973. Thereafter, Nk Baljit Singh married to Smt Rita Rani (Second wife) on 20.10.1971. Two sons namely Deepak Kumar and Rohit Kumar were born to Smt Rita Rani from his wedlock. Nk Baljit Singh died on 23.04.2013. After death of Nk Baljit Singh the applicant (second wife of deceased soldier) approached the respondents for grant of family pension which was denied by the respondents vide letter dated 04/05.10.2016. Applicant preferred various

applications for grant of family pension but the same were not granted to her. Being aggrieved, the applicant has filed instant Original Application.

3. Learned counsel for the applicant submitted that Smt Lila Devi (first wife of the diseased soldier) eloped with another man on 05.06.1971 and casualty to this regard was published by 7/11 Gorkha Rifles vide Part II Order No 0/0093/0017/1973. Smt Lila Devi was issue less. She was divorced as per customary law. Then Nk Baljit Singh married to Smt Rita Rani (second wife) and casualty in this regard was published vide Part II Order No 0/0093/0015/1973. Two sons born to Smt Rita Rani from this wedlock and casualty in this regard was published vide Part II Order No 0/0032/0009/1974 and 0/0011/0054/1979 respectively. Applicant (Second wife) was granted Rs. 5,000/- on account of demise grant from the respondents vide cheque dated 04.08.2016. Learned counsel for the applicant pleaded that in view of aforesaid, applicant is entitled for grant of family pension.

4. Per contra, learned counsel for the respondents submitted that it is not disputed that husband of applicant Nk Baljit Singh after eloping of Smt Lila Devi married with the applicant (Smt Rita Rani) and two sons were born to her from this wedlock. She was granted demise grant of Rs. 5,000/- after death of Nk Baljit Singh. Learned counsel for the respondents submitted that since second marriage was solemnized during the life time of first wife and without taking divorce from first wife, therefore, second marriage is null and void unless necessary formalities are completed, hence applicant is not entitled for grant of family pension. However, children born to second wife are still eligible for 50% ordinary family pension, if other conditions fulfilled. Applicant was asked to provide the decree of divorce from first wife for onward submission to PCDA (P),

Allahabad for issuance of family pension but the same was not submitted by the applicant. He further submitted that unless decree of divorce with first wife is produced, Smt Rita Rani cannot be treated as legal wife merely on the reason of being second wife. He further submitted that in the given facts, applicant is not entitled to special family pension, as she is claiming, hence, applicant is not entitled for special family pension. He pleaded that in the facts and circumstances, as stated above, Original Application deserves to be dismissed.

5. We have heard Ld. Counsel for the parties and perused the material placed on record.

6. After having heard the submissions of learned counsel of both sides we found that marriage of Smt Rita Rani with the deceased soldier is not a legal marriage because as per Hindu Marriage Act, second marriage is null and void unless there is divorce from first wife.

7. In the result, we hold that the claim of family pension has rightly been rejected by the respondents which needs no interference. Resultantly, O.A. is **dismissed**

8. No order as to cost.

9. Pending applications, if any, stand disposed off.

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

Dated: 02 August, 2021
Ukt/-