

Court No-1

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

ORIGINAL APPLICATION No. 524 of 2020

Tuesday, this the 03rd day of August, 2021

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

Smt. Jantra Devi, W/o Rfn No. 4038092 Ratan Singh Pundir, R/o
Village - Harsari, Post - Mehal Chori, District – Chamoli,
Uttarakhand.

..... Applicant

Counsel for the Applicant : **Shri Kishore Rai, Advocate**

Versus

1. Union of India, Ministry of Defence through its Secretary,
South Block, New Delhi – 110001.
2. The Principal Controller of Defence Accounts (Pension),
Draupadighat, Allahabad-211014.
3. Senior Record Officer, Records Garhwal Rifles,
PIN- 900400.

.....Respondents

Counsel for the Respondents : **Shri Niraj Upreti,
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) A direction to respondents to grant family pension to the applicant from the date of death of her husband i.e. 02.09.2008 or to

(ii) To summon the entire records of the applicant pertaining to computation of his family pension.

(iii) Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant.”

2. In brief, the facts of the case are that husband of the applicant Ex Rfn Ratan Singh Pundir was enrolled in the army and was granted service pension and the applicant is the legally wedded wife of Ex Rfn Ratan Singh Pundir. Husband of the applicant was re-employed in Central Industrial Security Force w.e.f. 22.02.1970 after his retirement from the army. Name of the applicant is recorded in the service record of her husband as well as in Pension payment order. Husband of the applicant has also married to one Smt Bhaga Devi who has no child born out of the wedlock with the applicant. Husband of the applicant died on 02.09.2008. Applicant after death of her husband approached respondents for grant of family pension but the same was denied because she is second wife of Ex Rfn Ratan Singh Pundir. Being aggrieved, applicant filed the instant Original Application for grant of Family Pension from the date of death of her husband.

3. Learned counsel for the applicant submitted that applicant Smt Jantra Devi is legally wedded wife. Her name is entered in service record as well as in PPO. Ex Rfn Ratan Singh Pundir again married with Smt Bhaga Devi on 17.04.1974 after his retirement from army and her both sons are adult and her daughter is married hence they are not entitled for any retiral benefit. Learned counsel for the applicant pleaded that in view of aforesaid, applicant is entitled for grant of ordinary family pension.

4. Per contra, learned counsel for the respondents submitted that it is not disputed that husband of applicant Ex Rfn Ratan Singh Pundir married with the applicant (Smt Jantra Devi) and her name is recorded in service record of her husband. He further submitted that Ex Rfn Ratan Singh Pundir after retirement from army again married with Smt Bhaga Devi and two sons and one daughter born to her from this wedlock. However Smt Bhaga Devi is not entitled for grant of family pension but children born to second wife are eligible for 50% ordinary family pension, if other conditions fulfilled. Learned counsel for the respondents submitted that applicant was asked times and again to produce necessary documents for grant of family pension i.e. details of children of second wife and certificate from Central Industrial Security Force regarding family details but applicant has not produced complete documents hence family pension was not granted to her. He further submitted that in the given facts, applicant is not entitled to family pension, as she is claiming. He pleaded that Original Application deserves to be dismissed.

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

6. The questions which needs to be answered is whether applicant is entitled for grant of family pension or not?

7. As per Regulation 66 of Pension Regulation for the Army 1961 (Part-I) as amended in 2008, definition of family has been defined as under:-

DEFINITION OF FAMILY

“66. Family for the purpose of Regulations in this Section shall consist of the following:-

(i) Wife in the case of male service personnel or husband in the case of female service personnel lawfully married before or after retirement.

(ii) A judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery.

(iii) Unmarried daughters/ unmarried sons (including those legally adopted widowed/ divorced daughters.

(iv) Parents who were wholly dependent on the service personnel when he was alive.”

8. Regulation 63 of Pension Regulation for the Army 1961 (Part-I) as amended in 2008, reads as under:-

(b) Ordinary Family Pension

“Para 63. Where Service personnel dies in the circumstances mentioned in the Category A of the Regulation 82 of these Regulations :-

(i) Either while in service, provided he had been found fit after successful completion of the requisite training and medical examination for commission, or at the time of enrolment in the case of Personnel Below Officer Rank, or

(ii) After release/retirement/discharge/invalidment with a pension of any kind under these regulations”

9. In view of the aforesaid policies, it is amply clear that Smt Jantra Devi, wife of the deceased soldier being first wife is entitled to Ordinary Family Pension.

10. In the instant case, applicant's name is recorded in service documents of her husband as well as in PPO of her husband. Smt Bhaga Devi married with Rfn Ratan Singh Pundir while his first wife was alive and without taking divorce with first wife, hence Smt Bhaga Devi is not entitled for retiral benefits. Similarly, two major sons and a married daughter of Smt Bhaga Devi are also not entitled to 50% of ordinary family pension as stated by the respondents.

11. In view of the facts and circumstances of the case, we are of the considered view that the applicant is entitled for Ordinary Family Pension from the date of death of her husband as per Pension Regulation for the Army.

12. Thus, in the result, Original Application succeeds and is allowed. The respondents are directed to grant Ordinary Family Pension to the applicant from the date of death of her husband as per Pension Regulation for the Army. 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. In case the respondents fail to give effect to this order within the stipulated time, they will have to pay interest @ 8% on the amount accrued from due date till the date of actual payment.

13. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 03 August, 2021

UKT/-

