

Court No. 2**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 402 of 2023**Thursday, this the 31st day of August, 2023**"Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)
Hon'ble Maj Gen Sanjay Singh, Member (A)"**

Smt Maya Kumari Chhetri widow of No 9413010K Ex Hav (Late) Chitra Bahadur Limbu, resident of Shanti Nagar, Dhudhan Khera (Near Utraitia Railway Station), Barauana, Lucknow-226002 (UP).

..... Applicant

Ld. Counsel for the : **Shri R Chandra**, Advocate
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi-11.
2. Chief of the Army Staff, Integrated Headquarters of Ministry of Defence (Army), DHQ, PO-New Delhi-11.
3. Officer-in-Charge, Records 11 GRRC, Lucknow-226002.

.....Respondents

Ld. Counsel for the : **Shri RC Shukla**, Advocate
Respondents. Central Govt. Counsel

ORDER (Oral)

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought the following reliefs:-

(a) The Hon'ble Tribunal may be pleased to direct the respondents to grant family pension to the applicant w.e.f. 06.12.2014 along with its

arrears with interest at the rate of 18 percent per annum and additional interest as per CDA (P), Allahabad Circular No 165.

(b) Any other appropriate order or direction which the Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case.

2. Counter and rejoinder affidavits filed by learned counsel for the parties are taken on record.

3. Brief facts of the case are that applicant's husband was enrolled in the Army (11 Gorkha Rifles) on 11.06.1973 and discharged from service on 31.12.1990 at his own request after rendering 17 years, 06 months and 21 days service. After discharge from service he was granted service pension vide PPO No. S/040987/90 (Army). Her husband being in receipt of service pension died on 05.12.2014. In the month of July, 2015 applicant submitted intimation to respondent No. 3 regarding her husband's death and requested for grant of family pension. Thereafter, applicant along with her son visited office of respondent No. 3 twice and in turn Record Office advised to liaise with PCDA (P), Allahabad for release of pension which has not been granted till date for want of certain documents, hence this O.A. has been filed.

4. Learned counsel for the applicant submitted that husband of the applicant was in receipt of service pension w.e.f. 01.01.1991 and after his death on 05.12.2014 applicant is entitled to receive family pension w.e.f. 06.12.2014 as her name has jointly been notified in the PPO No. S/040987/90 (Army) (Annexure A-2). Learned counsel for the applicant further submitted that despite submission of requisite documents to Record Office, applicant's pension has not been commenced till date. He pleaded for grant of pension w.e.f. 06.12.2014 alongwith interest thereon as per PCDA (P), Allahabad Circular No. 165.

5. On the other hand learned counsel for the respondents submitted that applicant's husband was enrolled in the Army on 11.06.1973 and was discharged from service w.e.f. 31.12.1990 under own request. He was provided service pension vide PPO No. S/040987/90 (Army) w.e.f. 01.01.1991 through Defence Pension Disbursing Office (DPDO), Kunraghat at Gorakhpur. It was further submitted that applicant's husband was enrolled in the Army as 'Indian Domicile' but the applicant's permanent address is of Nepal.

6. It was further submitted that applicant alongwith her son visited Gorkha Record Office on 19.05.2015 (Annexure R-5) for preparation of pension documents where she was told that her name has already been notified in the PPO of the deceased soldier. She was advised to report to PDA alongwith death certificate of her husband and other connected documents such as PPO, pension book, discharge book and Identity Card/Nagrikta Praman Patra etc, however she neither reported to PDA nor submitted required documents for commencement of family pension.

7. It was further submitted that on 14.08.2019 applicant visited Gorkha Record Office with her relative Lt Col KP Shrestha, Commanding Officer, 45 UP Battalion NCC for enquiry about family pension after a gap of 5 years from the date of her last visit where she was advised to submit the following documents for investigation and process for life time arrear claim documents in her favour and start of family pension:-

- (i) Pension Patra & Discharge Book in original.
- (ii) Bank Pass Book of deceased pensioner.
- (iii) Identity Proof (Nagrikta Praman Patr).
- (iv) Full family details from Chief District Officer.

(v) Recommendation letter and relationship certificate from Chief District Officer.

(vi) 08xpassport size photographs.

8. Learned counsel for the respondents further submitted that applicant has not submitted the aforesaid documents for processing her claim for grant of family pension. It was submitted that claim for life time arrears and family pension could not be processed as applicant has not submitted death certificate of her husband and other supporting documents to prove herself as wife of the deceased soldier.

9. Heard Shri R Chandra, learned counsel for the applicant and Shri RC Shukla, learned counsel for the respondents and perused the record.

10. No. 9413010K Ex Hav (late) Chitra Bahadur Limbu was enrolled in the Army (11 Gorkha Rifles) as Indian Domicile Gorkha on 11.06.1973 and he was discharged from service on 31.12.1990 after rendering 17 years, 06 months and 21 days service at his own request on extreme compassionate grounds before completion of terms of engagement. He was granted service pension vide PPO No. S/040987/90 (Army) through Defence Pension Disbursing Office (DPDO), Kunraghat at Gorakhpur.

11. In service documents, applicant's name is duly entered in family details of the deceased soldier where her date of birth and date of marriage are shown as 17.10.1958 and 07.12.1975 respectively.

12. During the course of hearing it is argued by learned counsel for the applicant that the documents cited by the respondents as per para 12 of their counter affidavit have already been provided while filing the O.A., to include, PPO, Revised PPO, discharge Book, pension pass book

and death certificate of her husband. It was further stated by learned counsel for the applicant that as regards the recommendation letter from the CDO is concerned, the details of the wife have already been included in the joint notification of PPO and hence pension in this case would be admissible. We find that since applicant's name is jointly notified in the PPO, there seems to be no necessity of additional document for grant of family pension except death certificate of her deceased husband, which has also been enclosed as Annexure A4 with the Original Application. Ld. Counsel for the applicant stated that the Nagrika Praman Patra has not yet been provided by the applicant, but its relevance in this case does not exist, since the pension was being disbursed in India.

13. Additionally, we also find that the respondents could not explain the necessity of any additional documents for the purpose of immediate release of pension though they may have some relevance later. We have seen that the widow, despite being jointly notified in the PPO, has been deprived of the pension since 2014 for reasons which could not be adequately explained by the respondents. In the circumstances, we find that though the relevant documents have been submitted to the Tribunal in the form of O.A., they may have not been provided to the Record Office for processing and release of pension.

14. Having heard arguments of both the sides it is clear that the essential required documents for release of pension are already part of the O.A. and that inspite of query being made for additional documents no explanation has been given. The respondents are directed to take cognizance of the documents placed with O.A. and on the basis of these documents, release the pension of the applicant

alongwith arrears w.e.f. 06.12.2014 within a period of three months from today with interest as per PCDA (P), Circular No. 165. Default will invite interest @ 8% p.a.

15. In view of the above, O.A. is **allowed**.
16. No order as to costs.
17. Miscellaneous application(s), pending if any, stand disposed off.

(Maj Gen Sanjay Singh)
Member (A)

Dated : 31.08.2023
rathore

(Justice Ravindra Nath Kakkar)
Member (J)