

Reserved
Court No. 3
(Ser No. 4)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 797 of 2022

Thursday, this the 10th day of August, 2023

"Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Vice Admiral Atul Kumar Jain, Member (A)"

Smt Guddi Devi, widow of Late Shri Shish Ram Yadav, No 1283422, Ex Sep, R/o Vill:-Milk Sultan, PO:-Sukrullapur, Distt-Farrukhabad (U.P.).

..... Applicant

Ld. Counsel for the : **Shri Vijay Kumar Pandey**, Advocate
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence (Army), South Block, R.K. Puram, New Delhi.
2. Addl Dte Gen Personnel Services, Adjutant General's Branch IHQ of MoD (Army), 'A' wing, Room No. 435, 4th Floor, Sena Bhawan, DHQ P.O. New Delhi-110011.
3. OIC Records, Records Artillery, Nasik Road Camp.
4. Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad-211014 (UP).

.....Respondents

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

ORDER

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) That this Hon'ble Tribunal may kindly be pleased to direct the opp. parties to grant the arrears of enhanced rate of family pension from the date death i.e. 25.10.2010 to attaining the age of 67 years of her deceased husband i.e. 08.12.2015 to the applicant, and provide the interest on the aforesaid delayed amount of additional pension with 18% p.a. since due date to actual date of payment, in the interest of justice.

(b) That this Hon'ble Tribunal may kindly be awarded the cost Rs. 20,20,000/-(Rs. Twenty Lac and Twenty Thousand) to the applicant against the opposite parties.

(c) That this Hon'ble Tribunal may be please to pass any other order or direction which this Hon'ble Court may deem just and proper be passed in favour of the applicant..

2. Brief facts of the case are that applicant's husband, whose date of birth being 09.12.1948, was enrolled in the Army on 09.12.1965 and after rendering about 17 years of service he was discharged on 01.01.1983 (FN). After discharge from Army service he was provided service pension. Thereafter, he was re-enrolled in Defence Security Corps (DSC) where he served till attaining the age of superannuation and was also provided service pension. Being in receipt of two service pensions he died on 25.10.2010. After death of her husband applicant is in receipt of dual Ordinary Family Pension. Grievance of the applicant is that she ought to be provided enhanced rate of Ordinary Family Pension from Army till her husband would have attained the age of 67 years i.e. from 26.10.2010 to 08.12.2015 as provided in

letter dated 03.09.1998 and 11.11.2019. It is in this perspective that this O.A. has been filed.

3. In this case applicant's contention is that she was not paid arrears of enhanced rate of Ordinary Family Pension from Army and interest on delayed payment of arrears after death of her husband in terms of Circular No. 630 dated 14.02.2020. Applicant's other contention is that she should be provided enhanced rate of Ordinary Family Pension up to 08.12.2015 i.e. till attaining the age of 67 years of her deceased husband.

4. On the other hand, respondents' contention is that after death of applicant's husband she was paid enhanced rate of Ordinary Family Pension w.e.f. 26.10.2010 to 08.12.2013 i.e. up to 65 years of pensioner's age. Learned counsel for the respondents further submitted that she is not entitled to arrears of enhanced rate of Ordinary Family Pension up to 67 years of age of her deceased husband in view of Circular No. 630 dated 14.02.2020 which stipulates that NOK of a deceased soldier of pre 30.05.1998 retiree is entitled to grant of enhanced rate of Ordinary Family Pension up to the age of 65 years and not 67 years as claimed by the applicant. It was further submitted that her due entitlements have already been paid as per Circular Nos. 568 and 555 dated 13.10.2016 and 04.02.2016 respectively.

5. Heard Shri Vijay Kumar Pandey, learned counsel for the applicant and Shri Yogesh Kesarwarni, learned counsel for the respondents and perused the record.

6. The record shows that her husband was born on 09.12.1948. Applicant's husband was discharged from the Army service on 31.12.1982. After death of her husband on 25.10.2010, PPO No FNA/017564/2012 was issued in her favour granting enhanced rate of Ordinary Family Pension w.e.f. 26.10.2010 to 08.12.2013 i.e. up to 65 years of pensioner's age and thereafter normal rate of Ordinary Family Pension w.e.f. 09.12.2013 till widowhood. Since the deceased soldier was pre-retiree of 30.05.1998, the enhanced rate of Ordinary Family Pension is payable to applicant for a period of 7 years from the day after the date of death or a period up to which the deceased employee would have attained the age of 65 years, whichever is earlier.

7. In the instant case applicant's deceased husband being born on 09.12.1948 completed 65 years age on 08.12.2013, therefore applicant is entitled to receive enhanced rate of Ordinary Family Pension w.e.f. 26.10.2010 to 08.12.2013 which being already granted vide PPO No FNA/017564/2012, nothing remains to be granted as per Circular No. 568 dated 13.10.2016 and Circular No. 555 dated 04.02.2016. Applicant's contention that she is entitled to receive enhanced rate of Ordinary Family Pension up to the age when her deceased husband would have completed 67 years age, as per circular No 630, is not tenable as this circular is

applicable to post retirees of 30.05.1998 and her husband was retiree of pre 30.05.1998.

8. In view of the above we are of the view that applicant is not entitled to enhanced rate of Ordinary Family Pension for the period 09.12.2013 to 08.12.2015 as claimed.

9. The O.A. is accordingly, **dismissed**.

10. No order as to costs.

11. Miscellaneous application(s), pending if any, stand disposed off.

(Vice Admiral Atul Kumar Jain)
Member (A)

Dated :August, 2023
rathore

(Justice Anil Kumar)
Member (J)