

Court No. 3
(Ser No. 11)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 867 of 2021

Wednesday, this the 25th day of January, 2023

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

Smt Saraswati Devi, widow of No 2962636-M Hony Nb Sub (late) Ram Kumar Singh, R/o Vill-Nihali Kheda, PO-Bara Sagwar, Police Station-Bara, Distt-Unnao (Uttar Pradesh)-229501.

..... Applicant

Ld. Counsel for the : **Shri Ravi Kumar Yadav**, Advocate
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence (Army), South Block, New Delhi.
2. Chief of Army Staff, Integrated Headquarters, Ministry of Defence, South block-III, New Delhi-110011.
3. The Officer-in-Charge, Records the Rajput Regiment, Fatehgarh, Distt-Farrukhabad (UP)-209601.
4. PCDA (P) (Army), Draupadighat, Allahabad-211014 (UP).
5. The Chief Manager, CPPC Bank of India, Bank of India Building, 87-A, 1st Floor, Gandhibaug, Nagpur (Maharashtra)-440002.
6. The Manager, Bank of India, Terha Branch, Post-Terha, District-Unnao (UP)-209865.

.....Respondents

Ld. Counsel for the Respondents. : **Shri Rajiv Pandey**, Advocate
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) To issue order or directions to the respondents to grant actual arrears of revised pension to the applicant in terms of Circular No 631 along with due drawn statement and suitable interest within time limit as deemed fit by the Hon'ble Tribunal.

(b) Any other relief as considered proper by the Hon'ble Tribunal be awarded in favour of the applicant.

2. Brief facts of the case are that applicant's husband was enrolled in the Army on 28.02.1966 and was discharged on 28.02.1990 (AN) under Army Rule 13 (3) III (i) after fulfilling terms of engagement. He was granted service pension in the rank of Havildar w.e.f. 01.03.1990 vide PPO No S/046370/89 (Army) dated 29.09.1989. After retirement he was conferred with the Honorary rank of Naib Subedar on 15.08.1990 w.e.f. 01.03.1990. Accordingly, his service pension was revised and corrigendum PPO was issued. Applicant's husband, who was in receipt of revised service pension in the rank of Hony Naib Subedar, expired on 20.03.2017 and thereafter, applicant was granted family pension based on Govt of India, MoD letter dated 21.02.2020 and PCDA (P), Prayagraj Circular No 631 dated 05.03.2020. Applicant has filed this O.A. for grant of actual arrears of revised pension to the applicant in terms of Circular No 631 alongwith interest.

3. Heard learned counsel for the parties and perused the record.

4. In this case applicant's contention is that she was not paid actual arrears of revised pension in terms of Circular No 631 and suitable interest on delayed payment of arrears. On the other hand, respondents' contention is that after death of applicant's husband she was paid her entitled dues w.e.f. 21.03.2017 as per Govt of India, MoD letter dated 21.02.2020 and Circular No 631.

5. Respondent No 1 to 4 have filed counter affidavit in which it has been stated that the applicant is in receipt of her entitled dues. In para 10 of the counter affidavit it has been stated by the respondents that correct disbursement of pension lies on the part of respondent No 5 and 6.

6. Respondent No 5 and 6 have also filed counter affidavit alongwith a detailed chart showing details of pension received by her husband during life time and thereafter by the applicant. It has been stated therein that w.e.f. 01.01.2006 a sum of Rs 25,13,062/- has been paid through pension account No 73101010005928 held at Bank of India, Terha Branch, Post-Terha, District-Unnao (UP) and only arrear amounting to Rs 50,296/- was remaining which was also paid on 02.12.2020. The bank respondents has also stated that the applicant is being paid her dues as per her entitlement vide Circular 631 regularly and nothing is pending to be paid to the applicant.

7. We find that applicant's entitled dues have been paid and since she is in receipt of regular family pension, she is not entitled to Interest on delayed payment of arrears in terms of the Hon'ble Supreme Court judgment dated 20.05.2015 passed in Civil Appeal No. 4677 of 2014, **Union of India vs Subhash Chander Soni**. She is not entitled to interest on delayed payment of arrears which in fact was paid on 02.12.2020 as averred by respondent No 5 and 6 in Para 6 of their counter affidavit. In the circumstances, we find that since applicant is receiving her dues towards monthly pension regularly and arrear has also been paid on 02.12.2020, nothing remains to be paid to the applicant.

8. In view of the above, O.A. is disposed of.

9. No order as to costs.

10. Miscellaneous application(s), pending if any, stand disposed of.

(Vice Admiral Atul Kumar Jain)
Member (A)

Dated :25.01.2023
rathore

(Justice Anil Kumar)
Member (J)