

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 1278 of 2023****Thursday, this the 16<sup>th</sup> day of January, 2025****Hon'ble Mr. Justice Anil Kumar, Member (J)**  
**Hon'ble Maj Gen Sanjay Singh, Member (A)**

Smt Dilmani widow of No. 6450218 Naik (late) Mohd Saheed, resident of village-Singhpur, Post-Singhpur, District-Rae Bareilly (UP)-229304.

.... applicant

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

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, Post Office-New Delhi-11
3. The Officer-in-Charge, Defence Security Corps Records, PIN-901227, C/o 56 APO
4. The Chief Controller Defence Accounts, Draupadi Ghat, Allahabad (UP).

... Respondents

Ld. Counsel for : **Dr. Shailendra Sharma Atal**, Advocate  
the Respondents Sr. Central Govt. Standing Counsel

## **ORDER**

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) The Hon'ble Tribunal may be pleased to set aside the order dated 08.07.2023 (Annexure No A-1).

(ii) The Hon'ble Tribunal may be pleased to direct the respondents to grant Ex Gratia amount to the applicant as per existing policy along with its arrears with interest at the rate of 18 percent per annum.

(iii) 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. Facts giving rise to this Original Application in brief are that husband of the applicant was initially enrolled in the Army on 18.11.1962. He was discharged from service w.e.f. 18.12.1981 (AN) under the provisions of Rule 13 III (iv) of Army Rules, 1954 at own request after rendering 19 years, 01 month and 13 days service for which he was granted service pension vide PPO No. S/C/38797/1981. He was re-enrolled in Defence Security Corps (DSC) on 02.07.1982 and did not opt to count his former service towards DSC service. On 20.11.1991, he died while under treatment in Military Hospital due to 'Haemorrhagic Cerebrovascular Accident due to Severe Hypertension'. After death of her husband, the applicant was granted Ordinary Family Pension (OFP) w.e.f. 21.11.1991 vide PPO No. F/NA/366/93 which was converted to Special Family Pension (SFP) vide this Tribunal's order dated 08.02.2022. The applicant is now in receipt of SFP w.e.f. 21.11.1991 vide PPO No. 194199301159. An appeal dated 04.03.2023 (Annexure No A-4 to O.A.) was preferred by the applicant for grant of Ex-gratia lump-sum compensation which was rejected vide order dated 08.07.2023 (Annexure A-1 to O.A.). Being

aggrieved with impugned order dated 08.07.2023, applicant has filed this O.A. for grant of Ex-gratia lump-sum compensation.

3. Learned counsel for the applicant submitted that after death of applicant's husband, the applicant was granted Ordinary Family Pension which, vide order dated 08.02.2022 passed by this Tribunal in O.A. No. 488 of 2021, was converted to Special Family Pension by treating death as attributable to military service. Learned counsel for the applicant further submitted that since death in respect of applicant's husband has been considered as attributable to military service, she deserves to be granted ex-gratia lump-cum compensation.

4. It was further submitted that the respondents have arbitrarily rejected appeal dated 04.03.2023 preferred for grant of ex-gratia lump-sum compensation vide order dated 08.07.2023 which needs to be quashed. Relying upon order dated 06.07.2021 passed by this Tribunal in O.A. No 355 of 2020, **Smt Sadhana Sharma vs UOI & Ors**, learned counsel for the applicant submitted that applicant deserves to be allowed ex-gratia lump-sum compensation.

5. On the other hand, learned counsel for the respondents submitted that consequent to death of applicant's husband, applicant was initially granted enhanced rate of family pension w.e.f. 21.11.1991 to 20.11.1998 and thereafter Ordinary Family Pension w.e.f. 21.11.1998 till widowhood vide PPO No. F/NA/366/93. Thereafter, the Ordinary Family Pension was revised on the direction of this Tribunal and she was allowed Special Family Pension vide PPO No. 194199301159 (Annexure R-1).

6. Learned counsel for the respondents further submitted that as per Rule 140 (a) of Pension Regulations for the Army-2008 (Part-I) and Govt of India, Ministry of defence policy letter dated 22.09.1998, payment of ex-gratia lump-

sum compensation is admissible to families when service personnel died in harness in specified circumstances in the actual performance of bonafide military duties where a causal connection and nexus exists between the occurrence of death and military service. It was further submitted that in the instant case the death of the applicant's husband was due to 'Haemorrhagic Cerebrovascular Accident/pontine Haemorrhage' which having no causal connection with military service, she was rightly denied grant of ex-gratia lump-sum compensation. He pleaded for dismissal of O.A. It was further argued that the conditions for grant of SFP and ex-gratia lump-sum compensation were different and that grant of one did not automatically make entitle the applicant for grant of ex-gratia lump-sum compensation.

7. Heard learned counsel for the parties and perused the record. We have also gone through the policy letters on the issue and Pension Regulations for the Army-2008 (Part-I).

8. Facts relating to death of applicant's husband and grant of Special Family Pension to the applicant are not in dispute. The controversy involved in this case is whether applicant is entitled to grant of ex-gratia lump-sum compensation on account of death of her husband due to 'Haemorrhagic Cerebrovascular Accident/pontine Haemorrhage'?

9. During the course of hearing, learned counsel for the applicant vehemently submitted that death in respect of applicant's husband was due to 'Haemorrhagic Cerebrovascular Accident/Pontine Haemorrhage' which having been granted as 'attributable to/aggravated by military service, leading to grant of SFP based on orders of AFT (RB), Lucknow in O.A. No. 488 of 2021, applicant is entitled to grant of ex-gratia lump-sum compensation.

10. Rule 141, clause (a) (i) of Pension Regulations for the Army-2008 (Part-I) deals with death attributable to accidents while on duty. The following accidents are covered under the above clause for grant of ex-gratia lump-sum compensation:-

*“(i) Death, as a result of an accident while travelling in a public, private or official vehicle or otherwise, of a Group ‘D’ employee, dispatch rider, messenger, postman, notice server etc, deputed to distribute dak notices etc, or of personnel on field duties.*

*(ii) Death occurring due to an accident while travelling on bonafide official duties in a service aircraft.*

*(iii) Accidents during test flights of aircraft and non-scheduled flight of chartered aircraft resulting in death of service personnel travelling on duty in public interest in such flights.*

*(iv) Death, in train accidents, of personnel undertaking official journeys on duty.*

*(v) Accidents to ships, river steamers etc, resulting in death of service personnel undertaking journeys on duty by these modes of travel.*

*(vi) Death, as a result of accidents, of service personnel while proceeding on raids against anti-social elements etc.*

*(vii) Death, due to contact with live electric/power lines, of personnel deployed on flood/cyclone relief activities.*

*(viii) Death, due to electrocution of service personnel engaged in rectification of defects in generation and distribution of electricity.*

*(ix) Accidents while engaged in rectification of defects in machinery and equipment.*

*(x) Death due to accidental explosion of boilers, storage tanks of inflammable materials, chemicals etc.*

*(xi) Death due to fire accidents while on duty.*

*(xii) Death of fire fighting staff engaged in fire-fighting operations”.*

11. The cause of death in this case i.e. ‘Haemorrhagic Cerebrovascular Accident/Pontine Haemorrhage’ does not get covered by any of the above clauses or any similar conditions for grant of ex-gratia lump-sum compensation.

12. We also find that the judgment relied upon by the counsel for the applicant is clearly different and distinguishable as in that case applicant’s husband met with a road accident in performance of military duty on 18.09.2003 and

succumbed to injuries on 19.09.2003 in Govt Medical College, Jabalpur. In that case there was a causal connection of the accident with military duty. A road traffic accident is clearly distinct from the cause of death in this case.

13. In view of the aforesaid discussion and having regard to the facts and circumstances of the case, we are of the view that since activity resulting in death in respect of applicant's husband being not due to accident and also not covered by the conditions stipulated for ex-gratia lump-sum compensation, the applicant is not entitled to ex-gratia lump-sum compensation.

14. Original Application deserves to be dismissed. It is accordingly, dismissed.

15. No order as to costs.

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

**(Maj Gen Sanjay Singh)**  
**Member (A)**

Dated: 16.01.2025

*rathore*

**(Justice Anil Kumar)**  
**Member (J)**

RESERVED

Court No 2

Form No. 4

**{See rule 11(1)}**  
**ORDER SHEET**

ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW

O.A. No. 1278 of 2023

Smt Dilmani W/o Nk(late) Mohd Saheed

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Ors

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<div>16.01.2025</div> <div>Hon’ble Mr. Justice Anil Kumar, Member (J)</div> <div>Hon’ble Maj Gen Sanjay Singh, Member (A)</div> <div><div>1. Judgment pronounced.</div><div>2. O. A. No. <b>1278</b> of 2023 is dismissed.</div><div>3. For orders, see our judgment and order passed on separate sheets.</div></div> <div><div>(Maj Gen Sanjay Singh)</div><div>Member (A)</div><div>rathore</div><div>(Justice Anil Kumar)</div><div>Member (J)</div></div>