

Court No. 2**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****ORIGINAL APPLICATION No. 147 of 2017**Monday, this the 05th day of March, 2018**“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)
Hon’ble Air Marshal BBP Sinha, Member (A)”****Smt Gomati Devi**, Mother of **No. 14829609-X Sep (MT) (Late)** Sanjay Kumar) R/o Village Kucha Purva, Post: Musafa, Tehsil: Bindki, Distt. Fatehpur (UP))-212657.

..... Applicant

Ld. Counsel for the: **Shri Shailendra Kumar Singh**, Advocate
Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, (Army)South Block, New Delhi.
2. Chief of Army Staff, Integrated Head Quarters, Ministry of Defence, (Army), South Block-III New Delhi-110011.
3. Addl Dte Gen of Pers Service (PS-4/ (Imp-I), General Staff Branch, Integrated HQ of MoD (Army), DHQ PO, New Delhi-110011.
4. Officer-in-Charge, Records, ASC Records (South), Bangalore (KTK)- 560007.
5. Commanding Officer, 4 RR (BIHAR), PIN: 934504, C/O 56 APO
6. PCDA (Pension) (Army), Draupadi Ghat, Allahabad (UP)- 211014.

.....Respondents

Ld. Counsel for the: **Shri Amit Jaiswal**,
Respondents. Addl. Central Govt. Standing Counsel
assisted by **Maj Salen Xaxa**, OIC
Legal Cell.

ORDER

Per Justice SVS Rathore, Member (J)

1. Today, the respondents have submitted compliance report alongwith MA No. 573 of 2018, which is taken on record. MA No. 573 of 2018 stands disposed of.

2. We have heard learned counsel for the parties and perused the record.

3. By means of this OA under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has made the following prayers:

“(A) To quash or set aside the Respondent 6 letter dated 06.05.2013 (Annexure A-15) wherein the death of the Son, was considered NOT ATTRIBUTABLE after re-examination of the instant case against the findings of Court of Inquiry arbitrarily.

(B) To grant parity of judgment passed by Hon’ble AFT (PB) New Delhi vide its order dated 18 May 2015 in OA 450/2014 (Smt. Punam Devi vs UOI & others).

(C) To impose an exemplary cost on the respondents for non implementation of Order dated 18 May 2015, despite the same was communicated to them by Respondent No. 5 vide its letter dated 30 Jun 2015 (Annexure A-1 refers).

(D) To issue suitable directions/instructions to Respondents to release LIBERALISED FAMILY PENSION in favour of the applicant with effect from 07.08.2010 (from next day of date of death) and to pay the arrears accrued thereof after necessary adjustment from the amount already paid by way of ORDINARY FAMILY PENSION alongwith suitable/

appropriate rate of interest as deemed fit and proper by this Hon'ble Tribunal.

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

4. In brief, the facts necessary for the purposes of instant OA may be summarised as under:

The applicant's son late Sanjay Kumar and six other Army personnel were travelling in two vehicles which met with an accident on 06.08.2010 and fell down in river Chenab between Thatri and Drabshala in Doda area of Jammu & Kashmir. Out of seven persons, bodies of five persons were recovered and their next kith and kin were granted liberalized family pension and ex gratia lump sum compensation. Bodies of applicant's son and one more Sep Saroj Kumar Singh were not recovered and, therefore, their next kith and kin have not been paid liberalized family pension as well as ex gratia lump sum compensation. As per respondents' reply, even Part II order declaring "missing presumed dead" w.e.f 06.08.2010 was published by 4th Bn of Rastriya Rifles and forwarded to the Record. The applicant's claim for liberalized family pension as well as for grant of ex gratia lump sum compensation was duly forwarded but her claim was not accepted.

5. It is astonishing to note that in such a case where one Army personnel alongwith six other personnel suffered the same accident wherein the vehicles fell down thousands of feet below

in Chenab river and out of seven persons, dead bodies of five persons were recovered and after detailed inquiry conducted by Court of Inquiry, finding of “presumed dead” was recorded about the applicant’s son Sanjay Kumar, but her claim for liberalized family pension as well as for ex gratia lump sum compensation has not been settled.

6. It is pertinent to mention that initially one Smt. Punam Devi, who happens to be the wife of Sep Saroj Kumar Singh, who was also a co-passenger in the same vehicle which met with the aforesaid accident, had filed OA No. 450 of 2014 before the Armed Forces Tribunal, Principal Bench at New Delhi and while disposing of the said OA vide order dated 18.05.2015, the Tribunal had directed as under:-

“7. In the interest of justice, we direct the respondents to give same benefit to the next kith and kin of 7th missing person who also has been declared dead from the date of accident, namely, Sanjay Kumar. The respondents shall complete all necessary formalities to give benefit to the next kith and kin of Sanjay Kumar, if the same has already not been given. The order be implemented within a period of three months from the date of receipt of a copy of this order.”

7. Since the benefit of the aforesaid order of the Tribunal was not extended to the applicant by that time, therefore, this OA was filed by the applicant before this Tribunal.

8. In the compliance report submitted today on behalf of the respondents, it has been stated that the benefit of the aforesaid

order dated 18.05.2015, passed by the Armed Forces Tribunal, Principal Bench at New Delhi in OA No. 450 of 2014 has been extended by the competent authority to the applicant also. Learned counsel for the respondents submits that since, the grievance of the applicant stands redressed, this OA has been rendered infructuous.

9. Learned counsel for the applicant does not dispute the above position.

10. In view of above, since the order dated 18.05.2015, passed by the Principal Bench, New Delhi in OA No. 450 of 2014, has been implemented and the benefits of the said order have been extended to the applicant, the grievance of the applicant stands redressed.

11. Accordingly, this OA loses its efficacy and is **dismissed** as having become infructuous.

We, however, make it clear that in case the applicant does not get the financial benefits within a reasonable time in compliance of the Government sanction, then he shall be at liberty to seek remedy in accordance with law.

(Air Marshal BBP Sinha)
Member (A)

(Justice S.V.S. Rathore)
Member (J)

Dated: 5th March, 2018
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