

RESERVED
COURT NO.1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

O.A. No. 576 of 2017

Friday, this the 10th day of May, 2019

“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)

Hon’ble Air Marshal BBP Sinha, Member (A)”

Smt. Sanjogi Devi, W/o No 1017690, Late Reservist Bir Bali Singh,
R/o Vill & PO – Isarpitha Patti, Dist- Ballia, UP, PIN – 221777.

.....Applicant

Ld. Counsel for the: **Shri V.P. Pandey, Advocate**
Applicant

Verses

1. Union of India through the Secretary Ministry of Defence, 101 South Block, New Delhi - 110011.
2. Chief of the Army Staff, South Block, New Delhi – 110001.
3. Office In- Charge Records, Armoured Corps Records, PIN – 900476, C/O 56 APO.
4. The Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad.

..... Respondents

Learned Counsel for the : **Ms. Appoli Srivastava,**
Respondents **Central Govt Counsel**

ORDER**("Per Hon'ble Air Marshal BBP Sinha, Member (A)")**

1. The instant Original Application under Section 14 (2) of the Armed Forces Tribunal Act, 2007 has been filed by the applicant with the following prayers :-

(I) To set aside/ quash the impugned order dated 14.02.2017 contained as Annexure A-1.

(II) To issue order or direction to respondents to grant benefit of OROP to the husband of applicant from 01.07.2014 to 10.08.2015.

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

(IV) Cost of the appeal be awarded to the applicant."

2. The undisputed factual matrix of the case is that the husband of the applicant was enrolled in the Army on 10.08.1951 and after rendering 09 years, 04 months and 21 days service in the army, he was transferred to reserve establishment wef 01.01.1961 under the provisions of Army HQ letter No 63664/IV/AG Org 2 (C) dated 09.04.1956. The husband of the applicant was discharged from reservist strength on 10.01.1967 after fulfilling conditions of engagement. The husband of the applicant thus rendered 15 years, 05 months and 03 days service in the Army. The husband of the applicant was in receipt of Reservist Pension till he died on

10.08.2015 and thereafter the applicant who is widow of late Bir Bali Singh is receiving family pension from 11.08.2015. The applicant preferred claim for grant of Life Time Arrears (LTA) of her husband from 01.07.2014 to 10.08.2015 in implementation of the scheme of One Rank and One Pension (OROP) issued vide PCDA (P), Allahabad Circular No 555 and Govt of India, Ministry of Defence letter dated 03.02.2016. Her claim for grant of benefit of arrears of LTA of OROP was denied by the respondents. Being aggrieved by denial of benefits of arrears of LTA of OROP, the applicant has filed the present Original Application.

3. Learned counsel for the applicant pleaded that the husband of the applicant was in receipt of reservist pension during his life time and after his death the applicant, who is widow of late Bir Bali Singh is receiving family pension from 11.08.2015. He pleaded that as per para 17.1 of Circular No 555 issued by Principal Controller of Defence Account, effective from 01.07.2014 payment of arrears accrued on account of pension shall be made in time bound manner. The applicant is entitled to draw LTA for the period from 01.07.2014 to 10.08.2015 (till the date of death). He submitted that similar Original Applications were filed in the AFT Chandigarh where in the notices have been issued to Ministry of Defence as the benefits of One Rank One Pension is not given to Pensioner of Reserved

Pensioner. Govt of India has circulated letter dated 03.02.2016 to all the three chiefs to implement the Scheme of OROP. He vehemently pleaded that the respondents have wrongly denied the claim for grant of benefit of pension of OROP to the husband of the applicant, contrary to Circulated letter dated 03.02.2016, hence denial of pension of OROP to the applicant's husband is unlawful and needs to be set aside.

4. On the other hand, learned counsel for the respondents conceded that the deceased soldier had rendered 9 + 6 years of pensionable service and was eligible for pensionary benefits under the provisions of Para 155 of Pension Regulation 1961 for the Army (Part -1) according to which "An OR reservist who is not in receipt of a service pension may be granted, on completion of the prescribed combined colour and reserve qualifying service, of not less than 15 years, a reservist pension equal to 2/3 of the lowest pension admissible to a Sepoy, but in no case less than Rs 375/- p.m. on his transfer to pension establishment either on completion of his terms of engagement or prematurely, irrespective of the period of colour service:" Accordingly the deceased soldier was granted monthly Reservist pension @ Rs 15 per month for life w.e.f. 10.01.1967 and the same was notified by PCDA (P), Allahabad PPO No S/7260/1957. The reservist Pension in respect of the deceased soldier was revised

from time to time. After it was reported by Smt Sanjogi Devi, the applicant, widow of Late Swr Bir Bali Singh, that her husband had died on 10.08.2015, she was granted ordinary family Pension vide PPO No S/JN/60626/1992. The applicant had thereafter approached Armoured Corps Records, vide her petition dated 05.10.2016 asking for grant of benefits of One Rank One Pension to her late husband which was suitably replied vide letter dated 29.11.2016 intimating that "Reservist Pensioners are not eligible for One Rank One Pension" as per the order of Govt of India and PCDA (P), Allahabad Circular No 555 dated 04.02.2016. She again preferred petition vide her letter dated 31.12.2016 which was also suitably replied vide letter dated 14.01.2017. Learned counsel for the respondents submitted that Reservist Pensioners are not entitled the benefits of OROP. Accordingly, her claim for grant of benefit of OROP has been correctly denied.

5. Heard learned counsel for the parties and perused the record. After hearing both the sides and perusing the evidence on record, the question which needs to be answered is whether the deceased soldier is entitled the benefits of pension of OROP for the period from 01.07.2014 to 10.08.2015?

6. During the course of the argument, learned counsel for the applicant in support of his contention placed reliance on the PCDA

(P), Allahabad Circular No 555 dated 04.02.2016. For convenience sake para 4 of the circular is reproduced as under:-

4. NON-APPLICABILITY

4.1. *The provisions of this circular do not apply to UK/HKSRA/KCIOs pensioners; Pakistan and Burma Army Pensioners.*

4.2. *These orders do not apply to Reservist Pensioners.*

4.3. *These orders also do not apply to Pensioners in receipt of Ex-Gratia payments.*

Thus it is clear that Para 4.2 of Circular No 555 clearly states that benefit of OROP is not applicable to Reservist Pensioners.

7. Learned counsel for the applicant in support of his contention further placed reliance on the Govt of India, Ministry of Defence letter dated 03.02.2016. For convenience sake para 4.1 of the letter is reproduced as under:-

APPLICABILITY

4. XXX XXX

4.1 *The provisions of this order, however, do not apply to UK/HKSRA/KCIO pensioners, Pakistan & Burma Army pensioners, Reservist pensioners and pensioners in receipt of Ex gratia payment.*

Para 4.1 of letter clearly states that pensionary benefit of OROP is not applicable to Reservist Pensioners.

8. Having heard the contentions on both sides, it is necessary to examine the relevant provisions in Army Pension Regulations, 1961. Regulation 145 prescribes the minimum qualifying service for pension as 20 years. Regulation 146 provides for the rate of pension. It also provides for a minimum monthly pension of Rs 375/-. Sub Section III deals with the pension of Reservists. Regulation 153 provides that service in the reserve shall not qualify for any higher pension or for gratuity, in the case of a person who is in receipt of service pension. Regulation 155, which is the most relevant in this case read as follows:-

“155. An OR reservist who is not in receipt of service pension may be granted on completion of combined colour and reserve qualifying service, of not less than 15 years, a reservist pension equal to 2/3 of the lowest pension admissible to a Sepoy, but in no case less than Rs 375/- per month on his transfer to pension establishment either on completion of his term engagement or prematurely irrespective of the period of colour service”.

9. Thus we find that on one hand the applicant is pleading for the benefits of OROP as conferred by Circular 555, as mentioned above while on the other hand the applicant is ignoring the fact that this Circular is not applicable to her late husband because he was a reservist pensioner. We don't find any valid reason to interfere with the decision of the respondents for denial of pensionary benefits of

OROP to the deceased soldier. Considering all issues specially Payment of Life Time Arrears (LTA), we are of the view that the applicant has failed to prove her case and hence we have no valid reason to interfere with the denial of pensionary benefits of OROP to the deceased soldier. In this view of the matter, we are of the considered opinion that the deceased soldier is not entitled to any relief as claimed from this Tribunal.

10. In view of the above, the O.A. lacks merits and is accordingly **dismissed.**

No order as to costs.

(Air Marshal BBP Sinha)
Member (A)

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

Dated : May, 2019
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