

**Court No. 1**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**ORIGINAL APPLICATION No. 256 of 2020**

Tuesday, this the 30<sup>th</sup> day of November, 2021

**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Haruli Devi W/o Late Sep Ram Prasad (No. 4152726 Ex Sepoy) R/o Village- Vadyura, Post – Saneti, District – Bageshwar, (Uttarakhand)

..... Applicant

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

Versus

1. Union of India through Secretary, Ministry of Defence, South Block Delhi-110011.
2. Incharge Records Kumaun Regiment, PIN -900473 C/o 56 APO.
3. Principal Controller of Defence Account (Pensions, No.G4/II/AT-1/Kumaun/G1656215), DraupadiGhat, Allahabad.

.....Respondents

Ld. Counsel for the  
Respondents.

: **Shri Rajesh Shukla,  
Central Govt. Counsel**

**ORDER**

**“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs.

*(I) To issue an order or direction in the suitable nature quashing the letter /order dated 04.08.2015, 21.08.2015 and 10.03.2018 issued from the office of respondents department (Annexure No.A-1,A-2 & A-3 respectively).*

*(II) To issue an order or direction in the suitable nature directing the respondent authorities to consider the claim of the applicant for release of family pension along with arrears of pension with the market rate of interest w.e.f. 20.10.2013.*

*(III) to issue any order or direction, which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

*(IV) To award the cost of the application to the applicant.*

2. Brief facts of the case are that husband of the applicant Late Ex Sep Ram Prasad was enrolled in the army on 13.01.1963 and discharged from service on 31.01.1978 after completion of 15 years of service. Husband of the applicant was granted service pension for services rendered in the army wef 01.02.1978. After retirement from army, husband of the

applicant was inducted in CRPF and after retirement from CRPF, he was granted service pension for services rendered in the CRPF. Husband of the applicant died on 20.10.2013 leaving behind widow Smt Haruli Devi (applicant) and other family members. After death of her husband, applicant approached respondents for grant of family pension which was denied to her. Being aggrieved, applicant has filed instant Original Application for grant of Family Pension.

3. Learned counsel for the applicant submitted that Late Ex Sep Ram Prasad was married to Smt Kiti Devi on 04.07.1970. Smt Kiti Devi eloped and re-married with Shri Diwani Ram and this marriage was dissolved on 30.03.1972 in presence of Village Panchayat. Late Ex Sep Ram Prasad was re-married with the applicant according to Hindu Rites, Rituals and Customs on 21.01.1973. Husband of the applicant died on 20.10.2013. After death of husband of the applicant, the applicant contacted respondents and Part II Order of her marriage was published. She was granted cheque amounting Rs. 5,000/- (Rupees five thousands only) for performing last ritual of her husband. Applicant represented her case for grant of family pension but her pension papers were returned by PCDA (P), Allahabad with remark that eloping of Smt Kiti Devi (first wife) is not a criteria for disqualifying her for grant of

family pension and marriage of the applicant with Late Sep Ram Prasad has no meaning. Learned counsel for the applicant submitted that name of the applicant has been recorded in the revenue record, in respect of immovable property left by the deceased employee being the sole widow of employee. Name of the applicant has also been recorded in service book of deceased employee, when her husband was inducted in the CRPF and on this basis applicant is receiving family pension from CRPF. Learned counsel for the applicant prayed that directions be issued to respondents to grant her family pension.

4. On the other hand, submission of learned counsel for the respondents is that in service record held with Records the Kumaon Regiment, Late Ex Sep Ram Prasad was married with Smt Kiti Devi and she eloped wef 01.07.1972. After elopement of first wife, Ex Service Man (ESM) got remarried to Smt Haruli Devi (the applicant) on 21.01.1973. After death of ESM, the applicant applied for publication of Part II Order of her marriage and for grant of family pension. The matter was investigated by Zila Sainik Kalyan Evam Punarvas, Bageshwar. Part II Order regarding re-marriage with the applicant was not published during service period of the ESM. Documents forwarded by the applicant for grant of

family pension were returned by PCDA (P), Allahabad. She was informed that as per family details, her son Mr Hemant Kumar is still eligible for grant of family pension. As per policy, applicant was not issued ECHS Card as she was not in receipt of pension. Learned counsel for the respondents submitted that as per Rule 66 (i) of Pension Regulation (Part-I), 2008, lawfully married male or female before or after retirement comes under the definition of the family. Audit authorities have not considered marriage of the applicant as lawful and rejected the family pension claim. Learned counsel for the respondents submitted that instant Original Applicant has no substance and is liable to be dismissed.

5. We have heard learned counsel for the parties and perused the material placed on record.

6. The question which needs to be answered is whether applicant is entitled for grant of full family pension or not?

7. As per Regulation 66 of Pension Regulation for the Army 1961 (Part-I) as amended in 2008, definition of family has been defined as under:-

**DEFINITION OF FAMILY**

*“66. Family for the purpose of Regulations in this Section shall consist of the following:-*

- (i) *Wife in the case of male service personnel or husband in the case of female service personnel lawfully married before or after retirement.*
- (ii) *A judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery.*
- (iii) *Unmarried daughters/ unmarried sons (including those legally adopted widowed/ divorced daughters.*
- (iv) *Parents who were wholly dependent on the service personnel when he was alive.”*

8. Regulation 63 (b) of Pension Regulation for the Army 1961 (Part-I) as amended in 2008, reads as under:-

**(b) Ordinary Family Pension**

**“Para 63.** *Where Service personnel dies in the circumstances mentioned in the Category A of the Regulation 82 of these Regulations :-*

- (i) Either while in service, provided he had been found fit after successful completion of the requisite training and medical examination for commission, or at the time of enrolment in the case of Personnel Below Officer Rank, or*
- (ii) After release/retirement/discharge/invalidment with a pension of any kind under these regulations”*

9. At the outset, we would like to note that ex serviceman contracted second marriage after absconding of first wife and this marriage was dissolved on 20.03.1972. After absconding first wife Smt Kiti Devi re-married with Shri Diwani Ram. Name of the applicant is recorded in revenue record of state Govt

which indicates that she is legally wedded wife of ex serviceman. Respondents have granted her Rs, 5,000/- (Rupees five thousands only) for performing last ritual of her husband which proves that she is legally wedded wife of ex serviceman. Applicant's name is recorded in service documents of her husband as well as Part II Order of her marriage has been published by the respondents. Her name is also recorded in service documents of ESM while service in CRPF and applicant is receiving pension from CRPF. In addition, applicant has produced certain documents which indicate that Smt Haruli Devi is legally wedded wife of Ex Late Sep Ram Prasad. Accordingly, applicant being legally wedded wife is entitled for grant of family pension after the next date of death of her husband.

10. Thus, in the result, Original Application succeeds and is **allowed**. Applicant is directed to submit requisite document, if any, to the respondents within one month. After receipt of the necessary documents, respondents shall grant Ordinary Family Pension to the applicant from the next date of death of her husband Late Ex Sep Ram Prasad. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. In case the respondents fail to give effect to this order within

the stipulated time, they will have to pay interest @ 8% on the amount accrued from due date till the date of actual payment.

11. No order as to cost.

12. Pending applications, if any, stand disposed off.

**(Vice Admiral Abhay Raghunath Karve)**  
**Member (A)**

**(Justice Umesh Chandra Srivastava)**  
**Member (J)**

Dated : 30 November, 2021

ukt/-