

Court No -1

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

Original Application No. 239 of 2011

Wednesday, this the 15th day of September, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Smt Neelam Singh, Wife of Late PTR Veyas Singh, Army No 104375179, R/o Village – Devgaon (Karouna), PO- Devgaon Baspa- Gauri Bazar, District- Deoria (U.P.).

..... Applicant

Ld. Counsel for the: **Shri Veer Raghav Chaubey, Advocate**
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi - 110011.
2. The Chief of the Army Staff, Integrated Headquarters of Min of Def (Army), New Delhi- 110011.
3. The Officer-in-Charge Records, Records of the Parachute Regiment, PIN- 900493, C/o 56 APO.
4. 116 Inf Bn (TA) PARA, PIN- 934316, C/o 56 APO.

..... Respondents

Ld. Counsel for the : **Shri Alok Kumar Mishra,**
Respondents **Central Govt Counsel.**

ORDER

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

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 following reliefs:-

“(a) To grant and release the family pension as well as disability pension in favour of the applicant and other consequential service benefits directing to the concerned respondents.

“(b) To issue direction to the respondents to decide the appeal pending before the respondents.

2. Brief facts of the case are that husband of the applicant Late Veyas Singh was enrolled in Territorial Army PARA on 23.12.1996. Late Veyas Singh was married to Smt Neelam Singh on 12.03.2000. Due to illness he was treated in various military hospitals. At the time of discharge, Invaliding Medical Board of the husband of the applicant was held on 05.02.2004 and applicant was diagnosed with disability ‘**AIDS WITH DISSEMINATED TUBECULOSIS**’ considered as neither attributable to nor aggravated by military service with 100% disability for life. Husband of the applicant was discharged from service on 04.03.2004 after completion of 05 years and 336 days embodied service in low medical category. Husband of the applicant died on 03.11.2005. Her claim for grant of disability pension was rejected

vide letter dated 01.12.2004. Her first and second appeals were also rejected vide order dated 30.10.2006 and 12.06.2008 respectively. Being aggrieved, the applicants have filed instant Original Application for grant of family/disability pension.

3. Ld. Counsel for the applicant pleaded that the husband of the applicant was enrolled in the Army in medically and physically fit condition. It was further pleaded that an individual is to be presumed in sound physical and mental condition upon entering service if there is no note or record to the contrary at the time of entry. In the event of his subsequently being invalided out from service on medical grounds, any deterioration in his health is to be presumed due to service conditions. He pleaded that husband of the applicant was under stress and strain due to his illness and rigors of service conditions which may have led to occurrence of the disability. The Ld. Counsel for the applicant, on account of aforesaid, pleaded for disability pension @ 100% to be granted to the applicant's husband.

4. On the other hand, Ld. Counsel for the respondents submitted that claim of applicant's husband for disability pension was rejected by the respondents as the disability of the applicant's husband was neither attributable to nor aggravated (NANA) by military service and the disability '**AIDS WITH DISSEMINATED**

TUBECULOSIS' from which husband of the applicant was suffering has no connection with military duty, hence the applicant is not entitled to disability pension. He further accentuated that the applicant is not entitled to disability pension in terms of Rule 173 of Pensions Regulations for the Army, 1961 (Part-I), which stipulates that, "unless otherwise specifically provided, a disability pension may be granted to an individual who is invalided out of service on account of a disability which is attributable to or aggravated by military service and is assessed at 20% or over, but in the instant case the disability of the applicant's husband has been assessed as NANA by duly constituted Invaliding Medical Board , therefore, the husband of the applicant is not entitled to disability pension. He pleaded that in the facts and circumstances of the case, as stated above, Original Application deserves to be dismissed.

5. We have heard Ld. Counsel for the parties and perused the material placed on record.

6. On careful perusal of the documents, it has been observed that the applicant's husband was enrolled on 23.12.1996, and he was invalided out from service with effect from 04.03.2004, i.e. after about five years embodied service. The husband of the applicant died on 03.11.2005. There is no dispute that the incumbent was invalided out from service having been placed in

the low medical category for '**AIDS WITH DISSEMINATED TUBERCULOSIS**', which is a sexually transmitted disease. In fact such disease has no relation with the service in the Army nor by any stretch of imagination can be said to have been aggravated by military service. In this regard we are clear that Para 6 of Chapter V- Miscellaneous Pensions, of Guide to Medical Officers Military Pensions 2002, In this regard we are clear that Para 6 of Chapter V- Miscellaneous Provisions of Guide to Medical Officers Military Pensions 2002 disallows the award of compensation for disability arising from sexual transmitted disease. The said para is reproduced under for ease of reference:-

Chronic Poisoning, Intoxication and Sexually Transmitted Diseases

6. *Compensation cannot be awarded for any disablement or death arising from intemperance in the use of alcohol, tobacco or drugs, or from sexually transmitted diseases, as these are matters within the member's own control.*

7. Consequently the present case does not fall within the category eligible for grant of disability pension to an incumbent under the provision of Rule 173 of the Army Pension Regulation read in conjunction with Guide to Medical Officer, Military Pensions 2002.

8. In view of the above, the Original Application is devoid of merit and deserves to be dismissed. Original Application is accordingly **dismissed**.

9. No order as to costs.

10. Pending applications, if any, are disposed of accordingly.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated : 15 September, 2021
Ukt/-