

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 117 of 2020

Thursday, this the 16th day of September, 2021

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

Smt Jayshree, mother of No 14939589X Ex Sep (late) Anumol Pratap Singh, R/O Tattarpur Khurd, Dist-Auraiya, Uttar Pradesh, presently residing at 122, Yogendra Vihar, Khadepur Naubasta, Kanpur, Uttar Pradesh.

.... Applicant

Ld. Counsel for the: **Shri Om Prakash Kushwaha**, Advocate
 Applicant **Shri Shiv Kumar Saroj**, Advocate

Versus

1. Union of India, Through Secretary, Ministry of Defence, New Delhi-110011.
2. The Chief of the Army Staff, COAS Secretariat, IHQ (Army) South Block New Delhi-110011.
3. Senior Record Officer, Corps of Signals, Pachpedi, Vidya Nagar, Jabalpur, Madhya Pradesh-482001.
4. Principal Controller of Defence Accts, Draupadi Ghat, Near, Sadar Bazar, Prayagraj, Uttar Pradesh-211014.

... Respondents

Ld. Counsel for the: **Shri Yogesh Kesarwani**, Advocate
 Respondents for respondent No 1 to 4 and 6.
 Wg Cdr SN Dwivedi (Retd), Advocate
 for respondent No 5.

ORDER (Oral)

1. By means of this O.A. applicant Smt Jayshree, mother of Sep (Late) Anumol Pratap Singh (Army No 14939589X) has claimed share of Liberalised Family Pension (LFP) which is being granted to Smt Anjana Singh, widow of the deceased soldier. The applicant has made following prayers:-

(i) To issue/pass an order or direction to set-aside/quash the rejection orders passed by Records Mech Inf Regiment, Ahmednagar, vide No 14939589X/FP dated 28.03.2017, 14939589X/FP dated 03.07.2017 and 14939589X/FP dated 24.07.2019, in which the applicant has been unjustly and arbitrarily denied the sharing of Family Pension absolute dependent mother of the deceased, which is annexed as Annexure No A-1 to this Original Application.

(ii) To issue/pass an order or directions to the respondents to consider and grant of sharing of family pension to the applicant for her livelihood.

(iii) To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.

(iv) To allow this original application with costs.

2. Brief facts of the case are that No 14939589 Sep Anumol Pratap Singh was enrolled in Indian Army on 24.01.2007. During the course of service while posted at Leh (Ladakh) (Op Rakshak), he died due to snow avalanche (natural calamity) on 04.04.2015. Accordingly, Liberalised Family Pension was granted to his wife Smt Anjana Singh vide PPO No. F/BC/20006/2016 dated 02.02.2016. In the year 2016, applicant had submitted an application to Mechanised Infantry Records through District Soldier Board, Kanpur for division of Liberalised Family Pension on the ground that she was dependent on her deceased son and her daughter-in-law was not looking after her. The

District Soldier Board, Kanpur forwarded her application to Records, Mechanised Infantry Regiment, Ahmednagar vide letter dated 09.06.2016. The matter with regard to division of pension was investigated by Records and referred to Army Recruiting Office, Lucknow for further investigation and recommendation in terms of para 130 of Pension Regulations for the Army, 2008 (Part-I) and para 174 of Defence Service Regulations for the Army, 1987 (Revised Edition). Based on application submitted by applicant, following amount was granted to her :-

- (i) Rs 6,25,000/- from Army Group Insurance Fund.
- (ii) Rs 2,00,000/- from U.P. State Govt.

3. Army Recruiting Office, Lucknow intimated that Smt Anjana Singh (widow of deceased soldier) is staying with her parents and not with her in-laws. She has a daughter named Aradhya Singh (aged 03 years) and her life is sustaining on pension because she has no alternate source of income. Previously, Mr. Shiv Pratap Singh had also claimed 33% of share of Liberalised Family Pension but later, on persuasion made by Army Recruiting Office, Lucknow, he agreed not to claim this amount and had a compromise with her daughter-in-law. This fact was intimated to applicant but she did not agree and submitted another application for division of Liberalised Family pension. As per request of applicant, the case was again investigated by Army Recruiting Office, Lucknow and statements of Smt Anjana Singh and Smt Jayshree were recorded. Based on investigation report, it was held that division of pension was only possible with compromise of both the parties on mutual basis. Since applicant was not

satisfied with the decision of the authority i.e. Army Recruiting Office, Lucknow, this O.A. has been filed for sharing of Liberalized Family Pension.

4. Submission of learned counsel for the applicant is that applicant is an old lady having no source of income for livelihood. Applicant has further submitted that she being mother of the deceased soldier is entitled to share of pension which is being granted to Smt Anjana Singh (widow of the deceased soldier). Advancing her submission, she informed the Tribunal that Smt Anjana Singh has left her matrimonial house after death of her son, and claimed the entire service benefits of Sep (late) Anumol Pratap Singh without sharing the financial benefits with the applicant, who is the dependent of the deceased soldier and have no source of earning.

5. Per contra, learned counsel for the respondent No. 1 to 4 and 6 submitted that applicant has received Rs 6,25,000/- from AGIF and Rs 2,00,000/- from the State Govt. His further submission is that applicant's husband Mr. Shiv Pratap Singh is having a property of house in addition to 2 plots plus two Bighas agricultural land. Her younger son is serving in the Army and assisting the family members. He submitted that based on an application from the applicant, an inquiry was held at Army Recruiting Office, Lucknow who after thorough investigation came to a conclusion that sharing of pension could be done on compromise between Smt Jayshree and Smt Anjana Singh but when every effort became futile, they submitted recommendations stating that Liberalised Family Pension in these circumstances cannot be shared without mutual consent. His further submission is that since applicant is in possession of enough property,

therefore, she is not entitled to share of Liberalised Family Pension. He pleaded for dismissal of O.A.

6. Wg Cdr SN Dwivedi (Retd), Advocate has filed counter affidavit on behalf of respondent No. 5 and submitted as under:-

(a) In terms of para 134 of Pension Regulations for the Army, 2008 (Part-I) Smt Anjana Singh (deceased soldier's widow) is in receipt of Liberalised Family Pension vide PPO dated 02.02.2016 as she is the nominated heir of the deceased soldier.

(b) The dependent (Smt Anjana Singh) of deceased soldier is solely entitled to Liberalised Family Pension, being legally wedded wife, heir to estate, and NOK of Ex Sep (Late) Anumol Pratap Singh. She has a daughter aged three years and family pension is her only source of income.

(c) Smt Anjana Singh is paying an amount of Rs 16,039/- per month as EMI on account of repayment of a house loan of Rs 16 lacs taken from Housing Development Finance Corporation Limited for purchase of a house. In addition to above, she is also paying insurance premiums of Rs 3396/- for self and Rs 23317/- for her daughter Aradhya Singh.

(d) Family pension can be divided amongst other eligible heirs in the family only if they were fully dependent on the deceased before his death, on the basis of verification/investigation report rendered by the Zila Sainik Board/Recruiting Organization and supported by the state of any one of local Civil Authorities. In this regard, local administration

was approached to find out wealth and income of the parties and a report dated 06.03.2017 from D.M. Kanpur Nagar was obtained with regard to division of Liberalised Family Pension (Annexure CA-5).

(e) Further, report dated 06.03.2017 clearly established that Smt Jayshree is not entitled to receive share in Liberalised Family Pension.

(f) He pleaded for dismissal of O.A.

7. We have heard learned counsel for both the sides and perused the material placed on record.

8. In the present case, we need to adjudicate an issue whether mother of the deceased soldier is entitled to receive share of Liberalised Family Pension which is being received by NOK (Smt Anjana Singh) of the deceased soldier. From the material placed on record we are clear that Smt Jayshree (mother of the deceased soldier) has received an amount of Rs 8,25,000/- from two agencies after death of her son.

9. In regard to division of Liberalised Family Pension, we have gone through para 130 of Pension Regulations for the Army, 2008 (Part I). For convenience sake, extract of the aforesaid Regulation is reproduced as under:-

“DIVISION OF SPECIAL FAMILY PENSION

130. (a) If the recipient of special family pension refuses to contribute proportionately towards the support of other eligible heirs in the family who were dependent on the deceased, or if the pension is in the name of the child but not devoted to the interest of the family generally, the competent authority may, on the basis of verification/investigation report rendered by the Zila Sainik Board/Recruiting Organization and supported by the statement of any one of the under mentioned Local Civil Authorities, divide at his discretion, the special family pension among the eligible heirs of the deceased:

- (i) Sarpanch of a Village;*
- (ii) Any serving or retired Gazetted Officer, Civil or Military, including a Junior Commissioned Officer.*
- (iii) Sub Post Master;*
- (iv) Qanungo or Patwari/Lekhpal;*
- (v) Sub-Inspector of Police;*

(vi) A Member of Municipal Corporation or Committee or a Zila Parishad/District Board;

(vii) Panchayat President/Village Munsif/ Patel/ Village Officer/Panchayat Executive Officer.

(viii) Member of Lok Sabha, Rajya Sabha, Vidhan Sabha or Vidhan Parishad;

(ix) Oath Commissioner/Notary Public.

Notes:1. The competent authority may order similar division of special family pension at the time of initial grant, if at the time of initial investigation of a claim, it is found that the nominated heir is not living a communal life with other eligible heirs, or he is not willing to contribute proportionately towards his support.

2. In the event of a division of special family pension, the widow's share shall not be less than the normal rate of ordinary family pension that would have been admissible to her had the death not been held as attributable to service.

(b) The division of special family pension as per clause (a) above, shall hold good only for the period during which the pension is payable to the original recipient under the Regulation governing its grant. If during this period one of the parties to the division (other than the original recipient) is disqualified or dies, his or her share shall be restored to the original recipient, if he or she is the only one living, or shall be divided among the remaining recipients, if there are more than one."

10. Thus, as per the aforesaid provision, case for division of Liberalized Family Pension was investigated by Army Recruiting Office, Lucknow. After thorough mediation no compromise was made between Smt Jayshree and Smt Anjana Singh and a report to this effect was submitted to Records, Mechanised Infantry Regiment. The Records Mechanised Infantry Regiment vide letter dated 24.07.2019 intimated both the parties about their inability to divide Liberalised Family Pension.

11. Thereafter, local administration was approached by Records Mechanised Infantry Regiment to find out assets and income in respect of the parties and after investigation, District Magistrate, Kanpur Nagar vide letter dated 06.03.2017 submitted following report with regard to division of Liberalised Family Pension. For convenience sake, letter dated 06.03.2017 is reproduced as under:-

पेंशन विभाजन के संबंध में

महोदय,

1. कृपया अपने पत्र संख्या 14939589/FP दिनांक 01 दिसम्बर 2016 एवं पत्र संख्या 14939589/FP दिनांक 30 नवंबर 2016 का अवलोकन करें।
2. आपके अनुरोध पर इस कार्यालय ने उपजिलाधिकारी सदर कानपुर नगर के माध्यम से श्रीमती अंजना सिंह विधवा पत्नी स्व. अनुमोल प्रताप सिंह और श्री शिव प्रताप सिंह पिता स्व. अनुमोल प्रताप सिंह और उनकी माता श्रीमती जयश्री की आर्थिक स्थिति की जांच करवाया है। जांच आख्या से मुख्य परिणाम निकले हैं :-
 - (क) श्रीमती जयश्री पत्नी श्री शिव प्रताप सिंह को श्रीमती अंजना सिंह द्वारा प्राप्त आर्मी ग्रुप इन्शुरेंस की धनराशि से रुपया 6,26,000/- ब्याज सहित उन्हें हिस्से के रूप में दे दिया गया है। यू. पी० आर्मेड फोर्स पुलिस द्वारा दी गई धनराशि रुपया 4,00,000/- में से रुपया 2,00,000/- भी श्रीमती जयश्री को दे दिया गया है।
 - (ख) श्रीमती जयश्री के नाम कानपुर में क्रमशः 115 वर्गगज व 100 वर्गगज के दो आवासीय प्लॉट हैं और 100 वर्गगज में विकसित आवासीय मकान है। श्री शिव प्रताप सिंह के पास मूल निवास औरैया में एक पैतृक मकान एवं कृषी भूमि भी है।
 - (ग) श्री अनुमोल प्रताप सिंह के छोटे भाई अतुल प्रताप सिंह सेना में कानपुर में तैनात है और माता पिता के साथ रहकर उनकी आर्थिक सहायता करके पुत्र दायित्व का निर्वहन कर रहे हैं। और अतुल प्रताप सिंह की पत्नी श्रीमती प्रतिमा सिंह के पास कानपुर नगर में एक 150 वर्गगज का आवासीय प्लॉट है।
 - (घ) आवासीय मकान और 2 आवासीय प्लॉट एवं छोटे पुत्र द्वारा हर प्रकार की आर्थिक सहायता तथा श्रीमती अंजना सिंह द्वारा श्रीमती जयश्री को दी गई धनराशि एवं श्री शिव प्रताप सिंह द्वारा मूल निवास में पैतृक निवास एवं कृषी भूमि श्री शिव प्रताप सिंह और स्वर्गीय अनुमोल प्रताप सिंह की माता श्रीमती जयश्री के लिए जीवन भरण पोषण हेतु पर्याप्त हैं।
 - (च) श्रीमती अंजना सिंह विधवा पत्नी स्व. अनुमोल प्रताप सिंह को इनके ससुराल द्वारा कोई भी आवासीय मकान व किसी भी प्रकार की कोई चल अचल संपत्ति नहीं दी गई है। और उनके द्वारा प्राप्त रुपया 7,884/- की मासिक पेंशन ही मात्र गुजारे का साधन है जो कि पर्याप्त नहीं है।
 - (छ) श्रीमती अंजना सिंह अपनी 3 साल की बेटी कु. आराध्या सिंह के साथ किराये के मकान में रहती है और उन्होने पुनर्विवाह नहीं किया है।
 - (ज) जांच समिति के अनुसार पारिवारिक पेंशन में किसी भी प्रकार की कोई कटौती अथवा किसी भी प्रकार का कोई बटवारा किया जाना उचित नहीं होगा और रक्षा विभाग में पेंशन नियमावली का उल्लंघन होगा।
3. सब तथ्यों को ध्यान में रखते हुये प्रशासन श्रीमती अंजना सिंह की पारिवारिक पेंशन में किसी प्रकार की कटौती अथवा किसी प्रकार के कोई विभाजन किए जाने के प्रस्ताव से सहमत नहीं है और श्रीमती अंजना सिंह को उनकी पारिवारिक पेंशन सुचारु रूप से मिलती रहनी चाहिए।

हस्ताक्षर -

(कौशल राज शर्मा)
आई. ए. एस.
जिलाधिकारी
कानपुर नगर

12. The aforesaid report dated 06.03.2017 clearly establishes that applicant Smt Jayshree is not entitled to receive share from Liberalised

Family Pension which is being received by her daughter-in-law Smt Anjana Singh who is residing separately along with her daughter Aradhya Singh.

13. In view of the above, O.A. has no merit and deserves to be dismissed.

It is accordingly **dismissed**.

14. No order as to cost.

15. Pending applications, if any, are disposed off accordingly.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 16th September, 2021
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