

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**Original Application No. 188 of 2021****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)

Ramesh Kumar Pal, S/O No 13659600 Ex Cook Hav Ram Nath, R/O Vill-Rasulpur, P.O.-Manpur, P/S-Manpur, P/S/-Ashupur Devsara, Teh-Patti, District-Prapatgarh (UP).

.... Applicant

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

Versus

1. Union of india through Secretary, MOD R.K. Puram, New Delhi-110011.
2. Dir PS-4, AG's Branch HQs, DHQ, PO- New Delhi-110011.
3. OIC Records, Records Brigade of the Guards, PIN-900746, C/O 56 APO.
4. PCDA (P), Draupadighat, Allahabad (UP).
5. State Bank of India through its Branch Manager, Branch:Ramganj Patti, Distt-Pratapgarh (UP)-222301.

... Respondents

Ld. Counsel for the **Mrs Anju Singh Singh**, Advocate
Respondents. Govt Standing Counsel.

ORDER (Oral)

1. The instant Original Application has been filed on behalf of the applicants under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicants have sought following reliefs:-

(a) That this Hon'ble Tribunal may kindly be pleased to direct the opposite parties to grant dependent family pension from 21.05.2002 to 02.06.2006 to the applicant, with compound interest @ 18% p.a. from due date to till the date of actual and final payment of the amount, in the interest of justice.

(b) That this Hon'ble Tribunal may kindly be pleased to award the cost of Rs 20,000/- (Rs Twenty thousand only) to the applicant against the opposite parties and allow the same.

(c) That this Hon'ble Tribunal may be pleased to pass any other order or direction which this Hon'ble Court may deem just and proper be passed in favour of the applicant.

2. Brief facts of the case are that No. 13659600 Ex Hav (Cook) Ram Nath was drawing pension vide PPO No. S/116062/87 (Army) dated 06.07.1987. His wife expired on 12.11.1995 and Ram Nath expired on 01.05.2000. Consequent to death of parents, their son i.e. applicant became eligible for grant of Ordinary Family Pension w.e.f. 02.05.2000 which was granted vide PPO No. F/NA/CORR/4348/2010. Applicant got married on 20.05.2002 and his Ordinary Family Pension was stopped saying that after marriage he is not entitled to receive the same. This O.A. has been filed for grant of Ordinary Family Pension for the period 21.05.2002 to 02.06.2008 i.e. till he attained the age of 25 years.

3. Learned counsel for the applicant pleaded that after death of his father, applicant being the sole legal heir of the deceased soldier has

received his due Ordinary Family Pension till 20.05.2002. His further submission is that after applicant's marriage on 20.05.2002, Ordinary Family Pension was stopped which is in contravention to clause 216 and 219 of Pension Regulations for the Army, 1961 (Part-I). He pleaded for grant of Ordinary Family Pension to applicant.

4. On the other hand, submission of learned counsel for the respondents is that applicant's Ordinary Family Pension was stopped w.e.f. 21.05.2002 on account of his marriage on 20.05.2002 in accordance with policy letter dated 03.02.1998 which stipulates that 'son/daughter including widowed/divorced daughter till he/she attains the age of 25 years or up to the date of his/her marriage/re-marriage, whichever is earlier (subject to income criterion to be notified separately). His further submission is that Pension Regulations for the Army, 2008 (Part-I) also stipulates the same provision as given in aforesaid policy letter and para 67 of Pension Regulations for the Army, 2008 (Part-I). His submission is that since applicant got married on 20.05.2002, therefore he is not entitled to receive Ordinary Family Pension in accordance with aforesaid provisions. He pleaded for dismissal of O.A.

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

6. Applicant Ramesh Kumar Pal has received Ordinary Family Pension for the period 01.05.2000 to 20.05.2002 vide PPO No. F/NA/CORR/4348/2010 dated 02.11.2010. His pension was stopped w.e.f. 20.05.2002 when he got married. In this regard, para 219 of

Pension Regulations for the Army, 1961 (Part-I) is relevant, which for convenience sake is reproduced as under:-

*"Conditions of eligibility for a family pension
219. A relative specified in Regulation 216 shall be eligible for the grant of family pension, provided;*

General

(i) he or she is not in receipt of another pension from Government;

(ii) he or she is not employed under Government Widow

(iii) a widow has not remarried.

This condition shall not apply to a widow who remarried her deceased husband's brother, and continues to live a communal life with and/or contributes to the support of the other living eligible heirs.

Son.

(iv) a son is below the age of 25 years.

Daughter

(v) a daughter until she attains the age of 25 years or marriage whichever is earlier."

7. Thus, keeping in view of aforesaid provision which says that a son is entitled to receive Ordinary Family Pension up to the age of 25 years, we are of the view that applicant is entitled to Ordinary Family Pension up to the age of 25 years i.e. 02.06.2008. The aforesaid provision does not say that a son after marriage is not entitled to receive Ordinary Family Pension, as contended by the respondents.

8. In view of the above, applicant is held entitled to receive Ordinary Family Pension till his attaining the age of 25 years.

9. Respondents are, therefore, directed to grant Ordinary Family Pension to applicant for the period from 21.05.2002 to 02.06.2008 alongwith arrears. It is also made clear that since

the applicant has been pursuing the matter from the year 2002, therefore, the law of limitation shall not apply in this case.

10. O.A. is **allowed** accordingly.

11. No order as to costs.

12. Pending application(s), if any, shall stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 16.09.2021
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