

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****ORIGINAL APPLICATION No.627 of 2020**Thursday this the 30th day of September 2021**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Smt Munni Devi, wife of Ex L/Nk Mohan Lal, Resident of House No 47/171, Village- Garhi Bhadauria, Post- Shahganj, District- Agra- 282010.

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

Versus

1. Union of India, through Secretary, Ministry of Defence, Govt of India, South Block, New Delhi -110011.
2. Office of the PCDA (P), Draupadi Ghat, Allahabad, Pin-211014 (UP)
3. Officer in Charge, Records, Signal Abhilekh Karyalaya, Signals Records, Post Bag No 5, Jabalpur, MP-482001.

.....RespondentsLd. Counsel for the
Respondents.: **Shri Somesh Singh,
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). This Hon’ble Tribunal may kindly be pleased to direct the opposite parties to grant the family pension to the applicant w.e.f. the death of her husband on 25.06.1997.*
- (ii). Pass any other order or direction which this Hon’ble Tribunal may deem fit and proper under the circumstances of the case.*

2. Facts giving rise to Original Application in brief are that alleged husband of applicant Ex L/Nk Late Manohar Lal was enrolled in the Army on 13.09.1965 and was discharged from service on 01.10.1981 on completion of terms of enrollment. Ex L/Nk Late Manohar Lal was granted service pension vide PPO No S/C/30442/1981S/36799/1986 dated 16.10.1981. Ex L/Nk Late Manohar Lal died on 25.06.1997. After death of deceased soldier, applicant Smt Munni Devi preferred claim for grant of family pension, which was rejected by the respondents stating that her name is not recorded in service documents of

deceased soldier. Being aggrieved, the applicant has filed instant O.A. for grant of family pension.

3. Learned counsel for the applicant submitted that after discharge from army, Ex L/Nk Late Manohar Lal was granted service pension vide PPO No S/C/30442/1981S/36799/1986 dated 16.10.1981. Ex L/Nk Late Manohar Lal died on 25.06.1997. Ex L/Nk Late Manohar Lal married to Smt Thangzuali at Silchar, Mizoram in the year 1973. Smt Thangzuali divorced to Ex L/Nk Late Manohar Lal in the year 1974. She again married to Mr Khumlian in February 1988. Ex L/Nk Manohar Lal married to Smt Munni Devi on 22.06.1978 and she has 4 children namely Deepak Sharma, Alok Sharma, Trilok Sharma & Pinki Sharma. After death of Ex L/Nk Late Manohar Lal, applicant applied for grant of family pension on 03.08.1997 along with succession certificate. Her claim for grant of family pension was rejected by the respondents vide letter dated 18.09.2019 on the ground that her name is not recorded in service documents of Ex L/Nk Late Manohar Lal. After applying of Smt Munni Devi applied for grant of family pension, necessary investigation was carried out. BRO Silchar conducted detailed investigation in the matter and submitted the enquiry report on 01.12.2000 stating that L/Nk Mohan Lal

got married to Smt Thangzuali in the year 1973 and divorced a year later in 1974. No divorce deed was available, hence Part II Order for divorce was not published. Smt Munni Devi was asked to forward succession certificate issued by competent authority. Applicant produced succession certificate issued by learned Civil Judge (Senior Division), Agra dated 31.05.2007 along with other required documents but family pension was not granted to her. Learned counsel for the applicant pleaded that Smt Thangzuali after one year of her marriage divorced to Ex L/Nk Manohar Lal in the year 1974, and she further married to Shri Khumliana in Feb 1988 and she is living with her husband and children, hence she is not entitled for family pension. Smt Munni Devi married to Ex L/Nk Manohar Lal after separation from Smt Thangzuali, hence she is legally wedded wife of Ex L/NK Manohar Lal. He prayed that direction be issued to respondents to entered her name in service record of her deceased husband and grant family pension to her.

4. Per contra, learned counsel for the respondents submitted that as per service record, Ex L/NK Manohar Lal married to Smt Thangzuali on 24.03.1973 according to Christian rites and nominated her for all pensionary benefits. However, no entry was found in the service records regarding

children born out of their wedlock. Ex serviceman died on 25.06.1997. After death of Ex L/Nk Manohar Lal, Smt Munni Devi had submitted a petition dated 08.08.1997 claiming her as widow of deceased soldier and asking for grant of family pension. To ascertain the correctness, a case was taken up with Branch Recruiting Office, Agra Cantt, wherein it was intimated that Smt Munni Devi was married to the deceased Ex Serviceman on 22.06.1978 and four children were born out of their wedlock, namely Deepak Sharma, Alok Sharma, Trilok Sharma and Ms. Pinky Sharma. Since Smt Thangzuali was legally wedded wife of the deceased ex serviceman as per service records held with Signals Records, hence the case was taken up with the Branch Recruiting Office, Silchar for necessary verification. A verification report was received from Branch Recruiting Office Silchar vide letter dated 01.12.2000 wherein they intimated that Smt Thangzuali was married to deceased Ex serviceman in November 1973 and divorced her husband in the year 1974. Thereafter she married to Ms Khumliana in Feb 1988. Signal Record approached Smt Thangzuali for unwillingness certificate to claim family pension. A case was again taken up with Branch Recruiting Office, Silchar for re-verification wherein it was intimated vide letter

dated 03.06.2004 that Smt Thangzuali is legally wedded wife of deceased ex serviceman and she has not remarried. Thereafter the case was referred to PCDA (P), Allahabad. Applicant was asked to forward succession certificate obtained from court of law. Applicant submitted succession certificate but PCDA (P), Allahabad clarified the issue vide letter dated 06.03.2007 that petitioner was not entitled for family pension as her marriage was contracted during life time of 1st wife without legal separation. After that, applicant submitted several representations for grant of family pension which were suitably replied by Signal Records. He pleaded that in view of the facts and legal position the Original Application is misconceived and devoid of merits as such liable to be dismissed.

5. Heard learned counsel for the parties and perused the documents available on record.

6. From perusal of documents it emerged that Ex L/Nk Manohar Lal married to Smt Thangzuali on 24.03.1973 and he again married to Smt Munni Devi on 22.06.1978 without divorce to first wife. Smt Munni Devi (second wife) married to Ex Late L/Nk Manohar Lal while his first wife was alive and without taking divorce with first wife, hence Smt Munni Devi (Second wife) is not entitled for family pension. Since, name of the

applicant Smt Munni Devi is not available as NOK in service record of the deceased soldier, as such, applicant is not entitled for grant of family pension. No solid proof has been produced before the Court which can ascertain that Smt Munni Devi is legally wedded wife of Ex L/Nk Manohar Lal the deceased soldier, hence impugned order passed by the respondents cannot be quashed.

7. In view of the facts and circumstances of the case, we find that applicant has failed to prove that she is legally wedded wife of the deceased soldier.

8. In the result, we hold that the claim of the applicant for grant of family pension has rightly been rejected by the respondents which needs no interference. Resultantly, O.A. is **dismissed**.

9. No order as to cost.

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

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

Dated: 30 September, 2021

Ukt/-