

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**Court No 1****ORIGINAL APPLICATION No. 1 of 2018**Tuesday, this the 07th day of September, 2021**“Hon’ble Mr. Justice Umesh Chandra Srivastava (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Smt Kamlesh, Widow of No 3163982K Nk (TS) Late Satkanwar,
Resident of Village – Patholi, Tehsil- Sardhana, District-
Meerut. Applicant

Counsel for the Applicant : **Shri Pankaj Kumar Shukla,
Advocate**

Versus

1. Union of India through Secretary, Ministry of Defence,
Govt of India, South Block, New Delhi.
2. Chief of the Army Staff, South Block, New Delhi –
110011.
3. The JAT Regiment, Pin- 900496, C/o 56 APO.
4. The Principal Controller of Defence Accounts (Pension),
Draupadighat, Allahabad-211014.
5. Smt Anita Devi, W/o Shri Upendra Rathee @ Pappu, D/o
Rajpal Singh, R/o Vill- Gangnauli, PO- Gangnauli, Tehsil-
Barot, District- Baghpat, U.P.- 250625.

.....Respondents

Counsel for the Respondents : **Dr. Chet Narayan Singh,
Central Govt. Counsel**

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

1. The instant Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 with the following prayers:

“A. To issue/pass an order to set aside/quash the impugned order dated 18.08.2017 passed by the respondents No. 3.

B. To issue/ pass an order or directions to the respondents to grant family pension to the applicant from date of death of her husband i.e. 20.06.2017, along with interest on the arrears of dues so accrued.

C. To issue/ pass any other order or direction to the respondents as this Hon’ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.

D. To allow this Original Application with costs.”

2. Facts giving rise to Original Application in brief are that alleged husband of applicant Ex Nk Late Satkanwar was enrolled in the Army on 21.01.1972 and was discharged from service on 01.02.1987 on completion of terms of engagement. Ex Nk Late Stkanwar was granted service pension vide PPO No S/36799/1986 dated 24.12.1986. Ex Nk Late Satkanwar while serving with 19 JAT had declared that his wife named Smt Kamlesh had died on 20.11.1985 and changed his next of kin to Anita Kumari (daughter). On 19.03.2014, applicant Smt Kamlesh sent a petition for publication of occurrence regarding birth of his daughter named Sarswati and son Ajay Kumar. She

was intimated that Part II Order for birth of children cannot be published because as per office record, Smt Kamlesh had died on 20.11.1985. Her prayer for grant of family pension was rejected by the respondents vide letter dated 18.08.2017. Being aggrieved, the applicant has filed instant O.A. for grant of family pension.

3. Learned counsel for the applicant submitted that Ex Nk Late Satkanwar had falsely declared Smt Kamlesh as dead with wrong intention whereas she is alive and impleaded the name of Anita Kumari as NOK. He further submitted that after retirement from army, Ex Nk Late Satkanwar was living together with the applicant Smt Kamlesh from year 1990 and thereafter two children namely Ms Saraswati (daughter) date of birth 08.01.1996 and Ms. Ajay Kumar (son) date of birth 13.09.1998 were born to applicant. Husband of the applicant Ex Nk Late Satkanwar died on 20.06.2017. After demise of her husband Ex Nk Late Satkanwar, she approached concerned authorities for grant of family pension. She was informed by the respondents that Ex Nk Late Satkanwar has declared Ms. Saraswati as her legal heir and Smt Kamlesh has been declared as dead, hence she cannot be granted family pension. Then Smt Kamlesh approached the respondents for adding her name in service record of her husband and for grant of family pension but family pension was denied to her. Learned counsel for the applicant

submitted that Smt Kamlesh is an uneducated village lady moreover if her name was not recorded in service documents of her husband, she has no fault. Learned counsel for the applicant pleaded that since Smt Kamlesh is real wife of Ex Nk Late Satkanwar and she is alive, hence her name should be entered in service record of her husband and family pension should be granted to her.

4. Per contra, learned counsel for the respondents submitted that Ex Nk Late Satkanwar was granted service pension after retirement from army. As per service record available in the army, Ex Nk Late Satkanwar declared Smt Kamlesh Devi as dead and name of Smt Anita Kumari was added as his NOK. In the year 2008, applicant Smt Kamlesh approached the respondents for grant of family pension claiming her as wife of Ex Nk Late Satkanwar. She was informed that family pension is granted to NOK and deceased soldier has declared Smt Anita Kumari (daughter) as his NOK, hence family pension cannot be granted to her. 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 :-

- (a) Ex Nk Late Satkanwar declared Smt Kamlesh Devi as dead on 20.11.1985 and declared Ms. Anita Kumari as his NOK and her name was recorded in service documents of the deceased soldier.
- (b) Ex Nk Late Satkanwar not declared Ms. Saraswati as daughter and Ajay Kumar as son in his service documents.
- (c) Ex Nk Late Satkanwar died on 20.06.2017

7. Perusal of document shows that deceased soldier has declared Smt Anita Kumari as his NOK. Even Names of Ms. Saraswati (daughter) and Ajay Kumar (son) have also not been recorded in service documents of the deceased soldier. Since, name of the applicant Smt Kamlesh (wife) is not available as NOK in service record of the deceased soldier, as such, applicant Smt Kamlesh is not entitled for grant of family pension. No solid proof has been produced before the Court which can ascertain that Smt Kamlesh is legally wedded wife of Ex Nk Satkanwar the deceased soldier, hence impugned passed by the respondents cannot be quashed.

8. 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.

9. 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**.

10 No order as to cost.

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

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

Dated: 07 September, 2021

Ukt/-