

Court No.1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 232 of 2020****Thursday, this the 2nd day of September, 2021****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Smt Madhuree Devi
M/o No. 14941489-L Late Gyanendra Singh of Mech Infantry
Regiment
R/o Vill – Behta Nathai Singh, PO – Korari Kalan,
Tehsil & Distt – Unnao (UP) – 209801

..... Applicants

Ld. Counsel for the Applicant : **Shri Virat Anand Singh**, Advocate

Versus

1. Union of India and others through The Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Army Staff, IHQ of MoD (Army), DHQ PO, New Delhi – 110011.
3. Officer Incharge, (Pension Group), Records, The Mechanised Infantry Regiment, C/o 56 APO.
4. Smt Varsha Singh, widow of No. 14941489L Late Sep Gyanendra Singh, Vill – Behta Nathai Singh, PO – Korari Kalan, Tehsil & Distt – Unnao (UP) – 209801

..... Respondents

Ld. Counsel for the Respondents : **Shri R.C. Shukla**,
Central Govt Counsel.**ORDER**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following relief:-

“(i) To pass an order to the respondents to

- Divide the pension as per rule among applicant and respondent number 4 from date of demise of his son – 10 Sept 2018 till date with interest.

- To grant Personal Accident Insurance amount to the applicant with interest.

(ii) To pass such other order(s) which their Lordships may deem fit and proper in the existing facts and circumstances of the case.

(iii) Allow this application with cost of rupees 50,000/-.”

2. The factual matrix of the case is that applicant's son Ex Sep (Late) Gyanendra Singh was enrolled in the Indian Army on 24.10.2009 and died on 10.09.2018 in a road accident while on leave at his native village. Accordingly, Ordinary Family Pension has been granted in favour of NOK i.e. Smt. Versha Singh (wife) vide PCDA (P) Allahabad PPO dated 21.12.2018. Special Family Pension (SFP) claim was processed but it was rejected by PCDA (P) Allahabad vide letter dated 27.02.2019 with an advice to submit an appeal against rejection of special family pension, if desired otherwise forward a certificate to claim Rs. 2 lakhs out of ACW Fund. The NOK, i.e. wife of deceased soldier submitted first appeal dated 09.04.2019 against rejection of SFP which was processed and was rejected by the First Appellate Authority vide letter dated 21.08.2019 with remarks that '***the circumstances of the death are not in anyway related to duties of military service and the committee has therefore, rejected her appeal***'. The NOK not satisfied with decision of First Appellate Authority submitted second appeal dated 27.09.2019 which was processed to Second Appellate Authority but no decision has been taken till

the date of filing of O.A. before this Tribunal. On grant of benefits and ordinary family pension to widow of the deceased soldier, the applicant (mother of the deceased) submitted her application to Records MIRC for division of family pension. Case of applicant for division of pension was examined by Records and was also investigated by Zila Sainik Kalyan Evam Punarvas Karyalaya, Unnao and was recommended for division of family pension between wife and mother of the deceased soldier. However, as per para 68 (a) of Pension Regulations for the Army, 2008 (Part-1), the ordinary family pension shall not be payable to more than one member of the family at the same time. Accordingly, Ordinary Family Pension being paid to wife of the deceased soldier was not divided between wife and the applicant. Being aggrieved, the applicant has filed the present Original Application for division of ordinary family pension.

3. Learned counsel for the applicant submitted that applicant was staying with his deceased son being separated from her other sons. After the death of her son, the daughter-in-law, respondent no. 4, left the old age applicant and never turned to look after her. The applicant is without any job, pension and hardly earning her livelihood from agricultural land. The applicant wrote to the authorities in Jan. 2019 and also through Zila Sainik Kalyan Office, Unnao about division of pension but nothing has been done in her favour. Learned counsel for the applicant pleaded that as per para 213, 215, 216, 219, 221 and 227 of Pension Regulations for the Army, 1961, ordinary family pension being paid to wife of deceased soldier be divided between applicant (mother) and wife.

4. Learned counsel for the respondents submitted that applicant's son was enrolled in the Army on 24.10.2009 and died on 10.09.2018 in a road accident while on leave at his native village. Accordingly, Ordinary Family Pension has been granted in favour of NOK i.e. Smt. Versha Singh (wife) vide PCDA (P) Allahabad PPO dated 21.12.2018. Special Family Pension (SFP) claim was rejected by PCDA (P) Allahabad vide letter dated 27.02.2019. The applicant, as per nomination made by the deceased soldier, has been paid a sum of Rs. 13,20,000/- on account of AGI death benefit. However, as per Para 68 (a) of Pension Regulations for the Army, 2008 (Part-1), the ordinary family pension shall not be payable to more than one member of the family at the same time, hence, division of ordinary family pension between wife and applicant is not permissible as per rules. He pleaded for dismissal of O.A.

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

6. We have given our earnest consideration to the submissions of the learned counsel for the parties and find that division of Ordinary Family Pension between wife and the applicant is against the settled law as per Para 68 (a) of Pension Regulations for the Army, 2008 and it cannot be paid to more than one member of the family at the same time, hence, applicant is not entitled to relief prayed by her.

7. We also find that applicant's claim for division of Ordinary Family Pension has rightly been rejected by the respondents as per rule, which needs no interference.

8. In view of above, we are of the opinion that O.A. is devoid of merit, deserves to be dismissed and is accordingly, **dismissed**.

9. No order as to costs.

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

Dated: 2nd Sept., 2021

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