

Court No.1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 315 of 2020****Tuesday, this the 28th day of September, 2021****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)Smt Kamla Devi
W/o Late Cfn Bahadur Singh, No. 7091146
R/o Village – Rithiya, Post – Mahripur, Amhut,
District – Basti (UP) – 272001

..... Applicant

Ld. Counsel for the Applicant: **Shri Saurabh Gautam**, Advocate

Versus

1. Union of India through Secretary, Ministry of Defence (Army), South Block, New Delhi-110010.
2. Chief of the Army Staff, IHQ of MoD (Army), South Block, New Delhi – 110011.
3. The Officer-in-charge Records, Record Office, Kavachit Corps Abhilekh Armoured Corps Records Pin 900476, C/o 56 APO.
4. PCDA (Pension), Draupadi Ghat, Allahabad.

..... Respondents

Ld. Counsel for the Respondents : **Shri Shyam Singh**,
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:-

“A. To issue/pass an order or directions to set aside the order dated 30 September, 2019 and consider the documents provided by the applicant before the competent authorities.

B. To issue/pass an order or directions to the respondents for the redressal of the grievances such as increase amount in pension, renounce the rent of shop and provide land for permanent residential purpose.

C. 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.”

2. The factual matrix of the case is that applicant's husband was enrolled in the Indian Army on 18.11.1964 and was discharged from service on 25.11.1976 after rendering 12 years and 06 days of service. The husband of the applicant died on 05.03.2015 vide death certificate dated 08.04.2015. The husband of the applicant was discharged from service due to plural marriage and the applicant is first wife of Late Cfn Bahadur Singh and her name is recorded in service record of the deceased soldier as his wife. In support, she produced a letter dated 21.04.2016 issued by Senior Record Officer. Zila Sainik Kalyan Avam Punarwas Karyalaya, Basti has allotted a shop to the applicant for rehabilitation of her and her son on monthly rent of Rs. 1408/- but earning from the shop is not so good to survive in her daily life. The applicant is being paid Rs. 1000/- monthly pension by the Defence Department. The applicant is a poor widow having one unemployed son and no earning for her livelihood being landless and due to no increase in pension and renouncement of allotted shop. After the death of her husband she has no monetary support and is compelled to live in hardship. She also approached to civil authorities for providing land which was rejected vide order dated 26.08.2017. Being aggrieved, the

applicant has filed the present Original Application for grant of financial assistance.

3. Learned counsel for the applicant submitted that husband of the applicant was discharged from service on 25.11.1976 after rendering 12 years and 06 days of service. The husband of the applicant died on 05.03.2015 vide death certificate dated 08.04.2015. The husband of the applicant was discharged from service due to plural marriage and the applicant is first wife of Late Cfn Bahadur Singh and her name is recorded in service record of the deceased soldier as his wife. In support, she produced a letter dated 21.04.2016 issued by Senior Record Officer. The husband of the applicant made a Registered Will dated 31.05.2013 in favour of his first wife i.e. Smt. Kamla Devi/applicant and gave all rights over his movable and immovable properties.

4. Learned counsel for the applicant further submitted that Zila Sainik Kalyan Avam Punarwas Karyalaya, Basti has allotted a shop to the applicant for rehabilitation of her and her son on monthly rent of Rs. 1408/- but earning from the shop is not so good to survive in her daily life. As per order dated 20.09.2016 passed by Zila Sainik Kalyan Avam Punarwas Adhikari, Basti, a sum of Rs. 11,408/- have to be paid by the applicant as rent and arrears. The applicant is being paid Rs. 1000/- monthly pension by the Defence Department which has not been increased. The husband of the applicant applied for allotment of land being an ex-serviceman but no action was taken by the authorities for allotment of land. The applicant is a poor widow having one unemployed son and no earning for her livelihood being landless and due to no

increase in pension and renouncement of allotted shop. After the death of her husband she has no monetary support and is compelled to live in hardship. She also approached to civil authorities for providing land which was rejected vide order dated 26.08.2017. He pleaded to release pensionary benefits and other monetary benefits to the applicant.

5. Learned counsel for the respondents submitted that applicant's husband being non pensioner, service documents have been destroyed after completion of prescribed retention period of 25 years in terms of Para 595 of Regulations for the Army, 1987. As per details recorded in IAFK-1172 (Long Roll), the husband of the applicant was discharged from service on 25.11.1976 as service no longer required due to plural marriage under Rule 13 (3) III (v) of Army Rules, 1954 after rendering 12 years and 16 days of service and therefore, in terms of para 132 of Pension Regulations for the Army, 1961 (Part-1) he was not granted service pension being less than 15 years mandatory qualifying service.

6. Learned counsel for the respondents further submitted that Hon'ble Defence Minister had sanctioned a grant of Rs. 15,000/- as penury grant to applicant's husband vide GOI, MOD, Kendriya Sainik Board letter dated 23.10.2007 with directions that this is an Ex-gratia grant from the Hon'ble Defence Minister and no further assistance will be given from this fund. Therefore, a petition dated 08.08.2013, addressed to Ministry of Defence for grant of military pension and financial assistance to applicant's husband was rejected vide letter dated 10.09.2013 quoting Regulation 132 of

Pension Regulations for the Army, 1961 (Part-1). Thereafter, a petition dated 29.05.2014 for grant of service pension/financial assistance received from applicant's husband which was replied asking to complete form of financial condition report for grant of financial assistance from Raksha Mantri's Discretionary Fund (RMDF) but in the mean time, GOI, MOD, Kendriya Sainik Board vide their letter dated 16.09.2014 had sanctioned financial assistance (penury) @ Rs. 1000/- per month to husband of the applicant. Thereafter, an application dated 19.09.2019 alongwith death certificate of her husband received through Zila Sainik Welfare and Ex-serviceman Office, Basti, UP which was suitably replied vide EME Records letter dated 01.10.2019 denying pensionary benefits to the applicant being her husband's less than 15 years pensionable service.

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

8. In the instant case, maximum help as per rules has been provided by GOI, MOD, Kendriya Sainik Board and Zila Sainik Kalyan Avam Punarwas Adhikari, Basti. Since, husband of the applicant has served only 12 years of service and was discharged before completion of 15 years pensionable service due to plural marriage, neither the husband of the applicant is entitled for service pension nor the applicant is entitled for family pension.

9. Further, this Tribunal has not been conferred any powers to release/grant any financial assistance to the families of the deceased soldiers, hence, applicant cannot be granted any financial assistance by this Tribunal.

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

11. No order as to costs.

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

Dated: 28th Sept., 2021
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