

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Review Application No. 94 of 2022
Inre O.A. No. 279 of 2022****Friday, this the 28th day of April, 2023****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Smt. Janki Devi Chhetri
Wife of late No. 14388105Y Ex Hav Rohit Dhar Chhetri
R/o A 203 Dev Bhoomi Enclave, Haridwar Road, Azabpur Kalan,
District – Dehradun (Uttarakhand), Pin – 248801

..... Applicant

Ld. Counsel for the Applicant: **Shri V.P. Pandey**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi-110011.
2. The Chief of the Army Staff, Integrated Headquarters , Ministry of Defence (Army), South Block, New Delhi – 110011.
3. Officer In-charge Records, Topkhana Abhilekh Artillery Records, PIN-908802, C/o 56 APO.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Prayagraj – 211014.

..... Respondents

Ld. Counsel for the Respondents : **Dr. Shailendra Sharma Atal**,
Central Govt Counsel**ORDER**

1. The applicant has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure Rules 2009). By means of this Review Application, applicant has prayed the following reliefs :-

“(a) Allow the Review Application and the order passed on 16.11.2022 in Original Application as mentioned in Para 1 of this

Review Application may be modified and directions be issued to the respondents to change clause of discharge from Army Rule 13 (3) Item (i) to Army Rule 13 (3) Item III (iii) of Army Rules, 1954 in view of amended Rule 2010 (SRO-22) dated 13.05.2010.

(b) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

(c) Allow this application with costs.”

2. Heard Shri V.P. Pandey, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents.

3. Submission of the learned counsel for the applicant is that Original Application No. 279 of 2022 of the applicant was allowed vide order dated 16.11.2022 and husband of the applicant was granted disability element @ 60% duly rounded off to 50% for life from the next date of his discharge till his death i.e. 10.09.2018 (Life Time Award). However, husband of the applicant was discharged from service being placed in low medical category in extended period of service. Since the husband of the applicant was discharged from service on medical ground during the extended period of his service, the discharge of husband of the applicant is shown in wrong clause 'Rule 13 (3) Item III (i)' instead of 'Rule 13 (3) Item III (iii)' of Army Rules, 1954. The husband of the applicant was not paid AGIF benefits due to wrong clause of discharge. Therefore, respondents be directed to change clause of discharge of husband of the applicant from Army Rule 13 (3) Item III (i) to Army Rule 13 (3) Item III (iii) in view of amended Rule 2010 (SRO-22) dated 13.05.2010.

4. He further submitted that Correction Application filed by the applicant today in the court be also allowed and typographical error in para 12 of order dated 16.11.2022 passed in OA No. 279 of 2022, showing disability element as 60% for life which would be rounded off to 50% for life be corrected to rounded off to 75% for life.

5. Learned counsel for the respondents opposed the prayer stating that clause shown in the discharge order of husband of the applicant under Rule 13 (3) Item III (i) is correct. Hence, Review Application is to be dismissed being devoid of merit.

6. With regard to correction application for correction of percentage of disability element of pension granted to husband of the applicant @ 60% for life which should be rounded off to 75% instead of 50%, learned counsel for the respondents agreed to being a typographical error.

7 We have gone through the order dated 16.11.2022 passed in OA No. 279 of 2022 by this Tribunal in which discharge of husband of the applicant is shown under clause Rule 13 (3) Item III (i) of the Army Rules, 1954 whereas, husband of the applicant was discharged from service on medical ground during the extended period of his service, the clause of the discharge of husband of the applicant should have been shown under Army Rule 13 (3) Item III (iii) in view of amended Rule 2010 (SRO-22) dated 13.05.2010.

8. We also find that first prayer of husband of the applicant made in Original Application No. 279 of 2022 was with regard to change of

clause of discharge from Army Rule 13 (3) Item III (i) to Army Rule 13 (3) Item III (iii) but the court while allowing the O.A. has granted benefit of rounding off of disability element to husband of the applicant but prayer with regard to change of clause of discharge of husband of the applicant could not be considered. We, therefore, find that there is an error apparent at the face of record which requires to be corrected by the respondents authority.

9. Accordingly, the Review Application is allowed. The respondents are directed to change clause of discharge of husband of the applicant from Army Rule 13 (3) Item III (i) to Army Rule 13 (3) Item III (iii) in view of amended Rule 2010 (SRO-22) dated 13.05.2010 and amend/correct relevant records of husband of the applicant and provide copies of relevant corrected documents including Discharge Book to the applicant accordingly.

10. Correction Application filed by the applicant is also allowed. The typographical error in para 12, line 10 of order dated 16.11.2022 passed in OA No. 279 of 2022, showing disability element as 60% for life which would be rounded off to 50% for life be corrected to read as 'rounded off to 75% for life', instead of 50% for life.

11. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 28th April, 2023

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