

Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW

Misc. Application No. 159 of 2015
(Inre : Original Application No. Nil of 2015)

Tuesday the 3rd day of February, 2015

“Hon’ble Mr. Justice S.C. Chaurasia, Member (J)
Hon’ble Air Marshal Anil Chopra, Member (A)”

Smt. Ramshree widow of No.1060357 W Late
SWR Ram Awtar, R/o Village – Barapur,
Post – Aliganj, Tehsil Aliganj,
District Etah (UP)

..... Applicant

By Legal Practitioner Shri R. Chandra, Advocate, Counsel for
the Applicant

Versus

1. Union of India, Through the Secretary,
Ministry of Defence, Government of India,
NEW DELHI.
2. The Chief of Army Staff,
Army Headquarters, DHQ Post Office,
NEW DELHI.
3. The Officer-In-Charge, Armoured Corps Records,
PIN-900476, C/o 56 APO
4. The Chief Controller, Defence Accounts (Pension),
Draupadi Ghat, ALLAHABAD (U.P.).

..... Respondents

By Legal Practitioner Shri Ishraq Frooqui, Standing Counsel for
the Central Government

ORDER

Hon'ble Mr. Justice S.C. Chaurasia

1. Heard Shri R. Chandra, learned counsel for the applicant, Shri Ishraq Farooqui, learned counsel for the respondents and perused the record.

2. This application, supported with an affidavit, has been moved on behalf of the applicant for condonation of delay in filing the instant Original Application, on the grounds that the applicant is the widow of Late SWR Ram Awtar and is an illiterate and poor woman. She has two children and has no knowledge about the provisions of law. Her villagers are helping her and one ex-serviceman is helping her financially. The applicant's husband was invalided out of service on 19.06.1981, on medical grounds for Diagnosis GENERALISED SEIZURES (345). His disability was assessed at 30 % for life, but it was assessed neither attributable to nor aggravated by military service. The disability claim of the applicant's husband was rejected by respondent No.4, vide order dated 05.02.1982. Her husband submitted a representation dated 16.10.1984 to the respondent No.4. On 05.03.2014, the applicant prayed to the respondents for granting family pension, but it was denied, vide order dated 30.06.2014, as her late husband had rendered only 04 years and 01 month's service and had not completed the

minimum 15 years qualifying service. The applicant submitted a representation on 08.10.2014 to the Secretary, Government of India, Ministry of Defence, for payment of disability/family pension. The Ministry of Defence forwarded her representation on 05.11.2014 to AG/PS-5 for examining the matter. Due to financial problems and being an illiterate woman, the applicant could not approach the Tribunal, earlier. The claim of disability pension creates a recurring cause of action and hence, the delay may be condoned.

3. Learned counsel for the applicant has submitted that the applicant is an illiterate woman, belongs to labour class, suffering from financial crisis and other family problems, as such, she could not approach the Tribunal well within time; that the claim of disability pension creates a recurring cause of action and the relief, if any, may be restricted to three years from the date of filing of the Original Application; that the delay in filing the Original Application deserves to be condoned.

4. Contra to the above submissions, learned counsel for the respondents has submitted that as per death certificate (Annexure A-3), the applicant's husband had expired on 08.03.1994, but the applicant has approached the Tribunal after about 21 years of his death. He has further submitted that her husband's claim for disability pension was rejected by the

competent authority in the year 1982, but he did not challenge the said order in any court of law during his life-time. His contention is that there is no valid or sufficient ground for condonation of such inordinate delay in filing the Original Application.

5. As per office report dated 02.02.2015, there is delay of 32 years, 05 months and 26 days in filing the Original application.

6. It is not disputed that the applicant's husband was invalided out of service on 19.06.1981 after rendering 04 years and one month's service, i.e., less than 15 years' qualifying service, which is compulsory to earn the service pension. His claim for disability pension was rejected by the PCDA, Allahabad vide their letter No.C-3/81/8039/VII dated 05.02.1982. Thereafter, her husband allegedly made representation dated 16.10.1984 (Annexure A-2) for payment of disability pension. As per death certificate (Annexure A-3) issued by the Village Pradhan, her husband had expired on 08.03.1994. It shows that her husband remained alive for about 12 years, after rejection of his claim for disability pension by the competent authority, but he did not challenge the rejection order in any court of law, for the reasons best known to him.

7. On the representation made by the applicant, information was given by the competent authority vide letter

dated 30.06.2014 (Annexure A-1) about the service profile of the applicant's late husband as per Long Roll and it was also communicated that service documents in respect of her husband have been destroyed by burning after expiry of the retention period in terms of para 592 to 596 of the Regulations for the Army, 1987. Since the applicant's late husband was not a pensioner, the service documents were destroyed after expiry of the retention period in accordance with rules.

8. The applicant's husband expired on 08.03.1994. The instant Original Application has been filed for payment of disability pension to her late husband with effect from 19.06.1981 till his death along with arrears and interest thereon, after about 21 years of his death, although, her husband never challenged the rejection order during his life-time.

9. The applicant's version is that her husband's disability was assessed at 30% for life, but it was assessed neither attributable to nor aggravated by military service. There is no evidence on record to substantiate the applicant's version. Under these circumstances, on merits also, no prima facie case has been made out in favour of the applicant. The grounds taken by the applicant cannot constitute a sufficient or valid cause for condonation of such inordinate delay.

10. The law of limitation is a matter of public policy and the concerned person is expected to approach the court/tribunal for redressal of his/her grievances, if any, well within time. The law does not help those persons, who slumber over their rights for a considerable period, without any sufficient cause.

11. After considering the record and the submissions made on behalf of both the parties, we are of the view that the applicant has not been able to show any sufficient cause for condonation of such inordinate delay in filing the instant Original Application. The delay condonation application lacks merit and it is rejected, accordingly.

12. The Original Application No. Nil of 2015, Smt. Ramshree vs. Union of India and others, being highly time barred, is also dismissed.

(Air Marshal Anil Chopra)
Member (A)

(Justice S.C. Chaurasia)
Member (J)

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