

**E. Court**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**Original Application No. 414 of 2020**

Friday, this the 23<sup>rd</sup> day of July, 2021

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Kumari Basanti D/O No 4153834 Sep Late Madhav Singh, R/O C/O Smt Tulsi Bhandari, W/O Shri Narendra Singh, Malak Road (Central Public College), Village-Kathari Bagh, Nilmatha, PO-Dilkusha, Distt-Lucknow-226002 (U.P.).

**.... Applicant**

Ld. Counsel for the: **Shri KP Datta**, Advocate.  
Applicant

Versus

1. Union of India, through Secretary, Min of Defence, New Delhi-110011.
2. The Chief of Army Staff, IHQ of MoD (Army), COAS Sectt, South Block, New Delhi-110001.
3. Officer-in-Charge, Record The Kumaon Regiment, Pin-900473, C/O 56 APO.
4. PCDA (Pension), Draupadi Ghat, Allahabad (UP).

**... Respondents**

Ld. Counsel for the: **Shri SN Pandey**, Advocate.  
Respondents.

**ORDER (Oral)**

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

- (I) *To issue/pass an order or direction to the respondents to decide applicant's representation/application submitted to the Officer-in-Charge, Records The Kumaon Regt, vide letter No. Km Basanti/Spl Fam Pen dated 02.01.2020 to grant her dues of family pension/special family pension. But, reply on the above mentioned representation is still awaited is being annexed as Annexure No A-1 to this Original Application.*
- (II) *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.*
- (III) *To allow this original application.*

2. Applicant Km Basanti is a handicapped unmarried daughter of No. 4153834 Late Sep Madhav Singh who died on 17.09.1972 while in service. Accordingly, Special Family Pension was granted to his wife Smt Parwati Devi vide PPO No. F/2616/73 dated 23.05.1973. After demise of Smt Parwati Devi on 10.09.1986 Special Family Pension was stopped. Applicant was in receipt of enhanced Children Allowance. Thereafter, no claim for continuance of Special Family Pension in respect of second legal heir was submitted to PCDA (P), Prayagraj till Km Basanti applied for grant of Special Family Pension vide application dated 28.02.2006. Thereafter, claim for grant of Special Family Pension in respect of applicant was processed by the

respondents and it was sanctioned vide PPO No. F/02/2008 dated 26.02.2008 (Annexure CA-I) payable w.e.f. 31.10.2007. Earlier, the applicant had filed O.A. No 168 of 2012 which was withdrawn vide order dated 26.04.2013. Later applicant filed O.A. No. 524 of 2012 which was dismissed vide order dated 23.11.2017 on submission of learned counsel for the applicant that applicant has received whatever was due. On 02.01.2020 applicant submitted a representation to Officer-in-Charge, Records The Kumaon Regiment for grant of Special Family Pension for the period from 01.09.1986 to 30.10.2007 which has not been decided. Now by means of this O.A. applicant is seeking to decide his representation dated 02.01.2020.

3. Learned counsel for the applicant submitted that though applicant has been granted Special Family Pension w.e.f. 31.10.2007 but she is entitled for the same w.e.f. 01.09.1986. His further submission is that applicant, being a mentally disabled and unmarried daughter of the deceased soldier, is entitled to Special Family Pension for the period from 01.09.1986 to 30.10.2007 also.

4. On the other hand, submission of learned counsel for the respondents is that applicant was receiving Children Allowance (CEA) at enhanced rate therefore, she is not entitled to receive Special Family Pension immediately after demise of her mother. His further submission is that after receipt of application dated 28.02.2006 from applicant it was processed and Special Family Pension was started w.e.f. 31.10.2007 which she is receiving. His further contention is that in terms of para 230 (c) of Pension Regulations for the Army, 1961 (Part-I) she is entitled to receive Special Family Pension w.e.f. the date of application. He pleaded for dismissal of O.A.

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

6. It is not disputed that applicant (second life pensioner) is mentally disabled daughter of a deceased soldier and she is in receipt of Special Family Pension w.e.f. 31.10.2007. It is also not disputed that applicant has received enhanced rate of Children Allowance for the period for which she is claiming Special Family Pension. Thus, we are clear that applicant is not entitled to Special Family Pension for the period she has been granted enhanced rate of Children Allowance in terms of para 230 (c) of Pension Regulations for the Army, 1961 (Part-I) which for convenience sake is appended as under:-

*“230 (c). A child in receipt of a children’s allowance shall not be eligible for the continuance of a special family pension. When the pension, or a portion thereof, is continued to any relative, the children’s allowance shall be payable at the ordinary rate without the 50 per cent increase referred to in regulation 239 with effect from the date of such continuance.”*

7. Additionally, O.A. No. 524 of 2012 was filed for same cause of action and in order dated 23.11.2017 passed by this Tribunal it has been specifically mentioned that applicant has received whatever was due to her. For convenience sake, operative portion of the aforesaid order is appended below:-

*“Learned counsel for the applicant submits that the applicant for the said period was entitled to Special Family Pension in pursuance to Regulations 213, 215, 216 and 220 (i) of the Pension Regulations for the Army, 1961 (Part-I). Learned counsel for the respondents has drawn our attention towards provisions of Regulation 230 (C) of aforesaid Pension Regulations and submits that the case of the applicant is covered by Regulation 230 (C).*

*Learned counsel for the applicant fairly conceded that in view of Pension Regulations for the Army, 1961 (Part-I), the applicant has received whatever was due to her and the Original Application may be dismissed since it has served its purpose.*

*In view of the submission of learned counsel for the applicant, the Original Application is rendered infructuous and is hereby dismissed as such.”*

8. From the aforesaid order we observe that since applicant has received whatever was due to her, nothing remains to be granted to her on account of Children Allowance and Special Family Pension.

9. In view of the above, O.A. is liable to be dismissed especially when order dated 23.11.2017 has been passed. It is accordingly, dismissed.

10. No order as to costs.

11. Miscellaneous applications, pending if any, are disposed off.

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

Dated: 23<sup>rd</sup> July, 2021  
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