

E-Court

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

**Original Application No. 513 of 2017**

**Tuesday, this the 06<sup>th</sup> day of April, 2021**

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

Smt. Dharmsheela, widow of Late Uday Shankar Singh, mother of No 15428982-N Late Sepoy (House Keeper) Jai Prakash Singh, resident of Village & Post-Gahmar, Tehsil-Jamania, District-Ghazipur, Pincode-232327 (U.P.).

..... Applicant

Ld. Counsel for the: **Shri KKS Bisht, Advocate**  
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, New Delhi-110011.
3. Directorate General of Medical Services (Army) DGMS-3D (Comp), Adjutant General's Branch, Integrated Headquarter of the Ministry of Defence (Army), 'L' Block, New Delhi-110011.
4. Officer-in-Charge Records and Commandant, AMC Centre and College, Lucknow-226002.
5. Principal Controller Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.)-211014.

..... Respondents

Ld. Counsel for the :**Shri Amit Jaiswal, Advocate**  
Respondents                      Central Govt Counsel.

**ORDER**

1. This 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) Issue/pass an order or direction of appropriate nature to the respondents to quash/set aside the letter No 1542892A/Pen/FP&PEA dated 19 November 2015 (Annexure No A-1 (ii)) vide which the respondent No. 4 rejected claim of family pension of the applicant in a highly arbitrary, capricious and illegal manner and returned the application and affidavit submitted by her mentioning therein that her name as mother is not recorded therein.
- (ii) Issue/pass an order or direction of appropriate nature to the respondents to grant her Special Family Pension (SFP) with effect from 29 April 2013 for life along with arrears @ 18% per annum till date of payment to which she is entitled as a matter of right.
- (iii) Issue/pass an order or direction of appropriate nature to the respondents to grant her ex-gratia compensation awarded of Rs 10 lakhs.
- (iv) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.
- (v) Allow this application with costs.

2. Brief facts giving rise to this application are that No. 15428982N Late Sepoy Jai Prakash Singh was enrolled in the Army Medical Corps on 25.07.2009 and expired on 28.04.2013. While serving with Command Hospital, Northern Command, Udhampur, he was granted 27 days casual leave with effect from 11.03.2013 to 06.04.2013 with permission to prefix 10.03.2013 and suffix 07.04.2013. Prior to reaching his home, he met with an accident resulting in his death at Command Hospital, Lucknow on 28.04.2013 due to '**Severe Sepsis with Multiorgan Dysfunction**

**Syndrome due to Lower Respiratory Tract infection following Spinal Cord Injury**'. A court of inquiry was held and vide its findings dated 02.09.2013, his death was declared as attributable to military service. Accordingly, special family pension was granted to mentioned NOK i.e. his father Shri Hirde Narain Singh vide PPO No. F 20303/2014 w.e.f. 29.04.2013, who also died on 01.09.2015. This application has been filed by Smt Dharmsheela claiming herself to be real widowed mother of deceased soldier for grant of family pension.

3. Learned counsel for the applicant submitted that applicant Smt Dharmsheela is the real mother of deceased soldier and she is entitled to family pension after death of her deceased son No. 15428982N Late Sepoy Jai Prakash Singh. His further contention is that Late Hirde Narain Singh who was in receipt of Special Family Pension vide PPO No. 20303/2014 was not real father of the deceased soldier. Late Hirde Narain Singh allured late Sepoy Jai Prakash Singh to get entry into Army under ex-servicemen quota as his ward. Unaware of the future consequences, late Sepoy Jai Prakash Singh got entry into Army and names of Shri Hirde Narain Singh and his wife Smt Jitmela Devi were entered in record of Army instead of his real father late Udai Shankar Singh and the applicant. He further submitted that neither her son nor she was aware of the future consequences. Applicant's learned counsel further submitted that after death of applicant's son, special family pension was issued to NOK i.e. late Hirde Narain Singh. Applicant, having been come to know from persons of her village that her right of special family pension was being enjoyed by late Hirde Narain Singh, wrote several letters to authorities concerned but each time it was informed that her name is not recorded in service documents of the deceased soldier as his mother. In support of her claim, she has

placed many documents on record to establish that she is the real mother of No. 15428982N Late Sepoy Jai Prakash Singh who died at Command Hospital, Lucknow on 28.04.2013 on account of severe accidental injury. Learned counsel pleaded for special family pension to be granted to the applicant.

4. Per contra, learned counsel for the respondents submitted that the deceased soldier succumbed to accidental injuries on 28.04.2013. Special family pension was granted to NOK i.e. Hirde Narain Singh as per records held in sheet roll of the deceased soldier. He further submitted that Hirde Narain Singh who was in receipt of special family pension died on 01.09.2015. The applicant claiming to be real mother of the deceased soldier has made several correspondences with authorities concerned but since her name was not entered in records of the deceased soldier, she was always denied special family pension on that ground. Learned counsel for the respondents further contended that since wife of late Hirde Narain Singh had died earlier, therefore, special family pension was stopped on demise of Hirde Narain Singh i.e. NOK of the deceased soldier. He pleaded for dismissal of O.A. on the ground that applicant's name as mother is not mentioned in service records of the deceased soldier.

5. We have heard rival contention of both the counsel and perused the material placed on record.

6. It is an admitted fact that the deceased soldier was enrolled in the army on 25.07.2009 on the basis of a relationship certificate dated 24.12.2007 issued by BEG, Roorkee Records and names of Hirde Narain Singh and late Jitmela Devi are entered as father and mother in service records of the deceased soldier. It is also not disputed that No 15428982N Late Sep Jai Prakash Singh met with a road traffic accident on 11.03.2013

while proceeding on leave and during treatment, he succumbed to injuries on 28.04.2013 at Command Hospital, Lucknow. Accordingly, as per records held in army, special family pension was granted to Hirde Narain Singh (entered as NOK-father in service records) who received special family pension till his death on 01.09.2015.

7. On receipt of application dated 25.04.2015 from applicant Smt Dharmsheela claiming to be mother of deceased soldier, the matter was investigated by various agencies including Zila Sainik Board Ghazipur, District Magistrate Ghazipur, AMC Records, BEG Records and Medical Directorate at Army Headquarters but nothing tangible could be achieved, rather the matter became more complex on receipt of replies from different organizations. Lastly the matter was referred to Judge Advocate General Branch at Command Headquarters, Central Command, Lucknow for adjudication who on examination gave the following remarks:-

*“In such facts and circumstances particularly due to contradictory civil verification, it may not be appropriate for the administrative auth to adjudicate the correct parentage of the deceased soldier. We are therefore of the opinion that a communication be address to both Shri Hirde Narain Singh and Smt Dharmsheela Devi to obtain a declaratory order from the competent civil court regarding the parentage of the deceased soldier for the purpose of disposal of special family pension. It may also be informed that pending receipt of such a judicial order disbursement of special family pension will be held in abeyance. Simultaneously, instructions may be issued to Pension Disbursing Agency and PCDA (P) to withhold further disbursal of special family pension.”*

8. The aforesaid order with regard to obtaining declaratory parentage was passed on 02.03.2017 and Hirde Narain Singh who was in receipt of

special family pension expired on 01.09.2015. Therefore, order issued by Judge Advocate General became meaningless on account of death of one of the declaratory parentage. Since as per above order special family pension was required to be stopped but by the time this order was issued, Hirde Narain Singh has already expired. Therefore, it is clear that presently special family pension is not being granted to anyone.

9. Further, applicant's name being not mentioned in army records as mother of the deceased soldier, she seems to be not entitled to special family pension, though applicant has produced a number documentary evidence on record to show that she is real mother of the deceased soldier, but true fact is that army records are maintained at the time of recruitment of a soldier and these records can only be changed on receipt of a declaration from the soldier which is not possible at this juncture as the soldier has already expired.

10. From the above and the fact that applicant's name is not mentioned in army records as mother of the deceased soldier, she is not entitled to special family pension.

11. The O.A. has no force and is liable to be dismissed. It is accordingly **dismissed**.

12. No order as to costs.

13. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated : 06<sup>th</sup> April, 2021  
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