

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(CIRCUIT BENCH AT NAINITAL)

O.A. No. 157 of 2021

Smt. Durga Devi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>30.05.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents.</p> <p>2. This O.A. has been filed by the applicant in terms of Section 14 of the Armed Forces Tribunal Act, 2007 by which the following reliefs have been claimed:-</p> <p>(a) A direction to quash the order dated 19.09.2017 passed by the respondent No 3 (contained as Annexure No 2 to this Original Application) or to-</p> <p>(b) A direction to grant the ordinary family pension as is admissible to the families of the personnel in receipt of reservist pension at par with the other retirees.</p> <p>(c) A direction to revision of service pension of the husband of applicant as per the recommendations of 5th, 6th and 7th CPC respectively.</p> <p>(d) To summon the entire records of the applicant pertaining to computation of his disability pension.</p> <p>(e) Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant.</p> <p>3. Brief facts of the case are that husband of the applicant No 6581102 Ex Sepoy (late) Prabhu Dayal Singh was enrolled in the Army on 10.12.1951 and he was discharged from service on fulfilling the conditions of his enrolment on 04.04.1967. After discharge from service he was granted Ex Gratia pension vide PPO No S/0058/2010 dated 02.11.2010. In the year 2017, when the applicant was alive, an application dated 13.07.2017 was forwarded to respondent No 4 for revision of his service pension which the respondent No 4 vide letter dated 19.09.2017 denied stating that personnel in receipt of Ex</p>

Gratia Pension are not entitled to revision of pension as per Circulars 555 and 570 issued by PCDA (P), Allahabad. Applicant's husband died on 23.12.2021. This O.A. has been filed by the applicant for revision of Ex Gratia Pension as per Circulars issued by PCDA (P), Allahabad.

4. Learned counsel for the applicant submitted that her husband was entitled to revision of pension and thus, she is also entitled to receive revised family pension as per Circular Nos 555 and 570 issued by PCDA (P), Allahabad. He further submitted that in this regard a representation was made on 13.07.2017 but it was rejected vide letter dated 19.09.2017 stating therein that Ex Gratia Pension is not revisable as per extant rules. He however, pleaded for grant of revised family pension to the applicant as per revised rates.

5. On the other hand, learned counsel for the respondents submitted that the applicant was enrolled in the Army on 10.12.1951 and he was discharged from service on 04.04.1967. Accordingly, he was granted Ex Gratia Pension vide PPO dated 02.11.2010. He, however, submitted that service documents in respect of applicant's husband have been destroyed as per Para 595 of Regulations for the Army, 1987 (Revised Edition) and Sheet Roll is available and as per which the applicant is legally wedded wife of the deceased soldier. He further submitted that since revision of OROP has not been made applicable to reservist pensioners in accordance with rules, applicant is not entitled to revised pension. He pleaded for dismissal of O.A.

6. We have heard Shri Kishor Rai, learned counsel for the applicant and Shri Neeraj Upreti, learned counsel for the respondents and perused the material placed on record.

7. There is no dispute that applicant's husband was enrolled in the Army on 10.12.1951 and he was discharged from service w.e.f. 04.04.1967. After discharge from service he was sanctioned and granted Ex Gratia Pension vide PPO dated 02.11.2010 which he received till death i.e. 23.12.2021. Applicant is claiming revision of pension/family pension as per Circulars 555 and 570 issued by PCDA (P), Allahabad. In this regard applicant's husband had approached Records ASC (South), Bangalore vide letter dated 13.07.2017 which was denied vide letter dated 19.09.2017 (Annexure No 2) stating that Circulars 555 and 570 are not applicable to the personnel who were granted Ex Gratia Pension.

8. As per rules prevalent at that time applicant's husband was sanctioned and granted Ex Gratia Pension which is to some extent equivalent to reservist pension. As per Para 155 of the Pension Regulation for the Army 1961 "An OR reservist who is not in receipt of a service pension may be granted on completion of the prescribed combined colour and reserve qualifying service of not less than 15 years, a reservist pension equal to $\frac{2}{3}$ rd of the lowest

pension admissible to a Sepoy but in no case less than Rs. 375/- p.m on his transfer to pension establishment either on completion of his terms of engagement or prematurely, irrespective of the period of colour service.”

9. Accordingly, applicant's husband was sanctioned Ex Gratia Pension and paid accordingly vide PPO dated 02.11.2010. We have perused letter dated 19.09.2017 and we find that in terms of para 4.1 of Govt of India, Min of Def letter dated 03.02.2016 the benefits of revision of pension are not applicable to reservist pensioners (Ex Gratia Pension) and as such Circular No 555 and 570 issued by PCDA (P), Allahabad are not applicable to them being beneficiaries of Ex Gratia Pension.

10. In view of the above, we find no merit in the case and it is accordingly, **dismissed.**

11. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

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