

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW  
(CIRCUIT BENCH AT NAINITAL)**

**ORIGINAL APPLICATION No. 152 of 2022**

Wednesday, this the 01<sup>st</sup> day of June, 2022

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

Smt Basanti Devi, W/o No. 4151714K Sep Late Ram Singh,  
R/o Village- Baijrikot, Post Office – Champawat, District-  
Champawat – 262523, Uttarakhand

..... Applicant

Counsel for the : **Shri Kishore Rai, Advocate**  
Applicant

Versus

1. Union of India, Ministry of Defence, through its Secretary,  
South Block, New Delhi.
2. The Principal Controller of Defence Accounts (Pension),  
Draupadighat, Allahabad-211014.
3. Chief of Army Staff, Army Headquarters, New Delhi.
4. Senior Record Officer, Kumaun Regiment, Ranikhet.

.....Respondents

Counsel for the Respondents : **Shri Neeraj Upreti,**  
**Central Govt. Counsel**

**ORDER**

**“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

1. The instant Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 with the following prayers:

*“(i) A direction to quash the order dated 22.03.2021 passed by respondent No. 4 (contained as Annexure No 6 to this original application) or to*

*(ii) A diorection to family pension to the applicant wef the date of death of her husband i.e. 03.02.2021.*

*(iii) To summon the entire records of the applicant’s husband pertaining to computation of family pension.*

*(iv) Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant.*

2. Facts giving rise to Original Application in brief are that husband of applicant Ex Sep Late Ram Singh was enrolled in the Army on 08.12.1962 and was discharged from service on 01.01.1978 under Army Rule 13 (3) III (i) on completion of terms of enrolment and granted service pension vide PPO No S/048204/1979. He was married to Smt Gita Devi (first wife). Ex serviceman solemnized second marriage with the applicant (Smt Basanti Devi) on 03.06.1979. Smt Gita Devi died on 13.12.2003. Ex serviceman applied for endorsement of name

of Smt Basanti Devi (2<sup>nd</sup> wife) for grant of family pension but he was informed that name of Smt Basanti Devi cannot be endorsed for grant of family pension as it is a case of plural marriage. Ex serviceman died on 03.02.2021. After death of ex-serviceman, applicant approached respondents for endorsement of her name in service documents of her husband but the same was rejected. The applicant approached the respondents for grant of family pension which was denied by the respondents on the ground that her name is not entered in service record of Ex Sep Ram Singh. Applicant preferred various applications for grant of family pension but the same was not granted to her. Being aggrieved, the applicant has filed instant Original Application for grant of family pension.

3. Learned counsel for the applicant submitted that Ex Sep Ram Singh was married to Smt Gita Devi who died on 13.12.2003. She was issueless, hence Ex serviceman solemnized second marriage with Smt Basanti Devi. Name of Gita Devi was recorded as legally wedded wife in the service document of late Ex Sep Ram Singh. Ex-serviceman wrote various letters to publish Part II Order for marriage of his second wife (Smt Basanti Devi) and for grant of family pension but the same was denied. After death of Ex Sep Ram Singh, applicant

also approached respondents for endorsement of her name in service record of her husband but the same was denied. Learned counsel for the applicant pleaded that Ex serviceman married to Smt Basanti Devi (second wife) as Gita Devi (1<sup>st</sup> wife) was issueless and even she had died, hence her name should be entered in service record of her husband being a legally wedded wife. Learned counsel for the applicant pleaded that in view of aforesaid, applicant is entitled for grant of family pension.

4. Per contra, learned counsel for the respondents submitted that as per service record, Ex Sep Ram Singh was granted service pension after retirement from army. Ex serviceman was married to Smt Gita Devi (1<sup>st</sup> wife) and gave birth to one daughter Miss Basanti Devi in the year 1962. Smt Gita Devi died on 13.12.2003. Applicant remarried to Smt Basanti Devi on 03.06.1979 without getting any decree of divorce from court of law from his first wife which is illegal in accordance with Hindu Marriage Act 1955 and Plural Marriage defined in Para 333 of Defence Service Regulation for the Army (Revised Edition 1987), Volume 1, Page No 112. Two sons named Khim Singh and Satish Singh born from wedlock of Smt Basanti Devi and Ex Sep Ram Singh. Ex serviceman died on

03.02.2021. After death of Ex serviceman, the applicant approached respondents for endorsement of her name in service documents for grant of family pension which was denied on the ground that applicant re-married to ex serviceman on 03.06.1979 while first wife of deceased soldier was alive and without obtaining any decree of divorce from Court of law, hence it is a case of plural marriage. He pleaded that in view of the facts and legal position the Original Application is misconceived and devoid of merits as such liable to be dismissed.

5. Heard learned counsel for the parties and perused the record.

6. The question before us to decide is 'whether applicant being 2<sup>nd</sup> wife is entitled for grant of family pension'?

7. In the instant case, Ex Sep Ram Singh married to Smt Gita Devi (1<sup>st</sup> wife) and her name is recorded in his service document. Ex serviceman remarried to Smt Basanti Devi on 03.07.1979 without obtaining any decree of divorce from first wife. Ex Sep Ram Singh has stated in O.A. that he married to Smt Basanti Devi (2<sup>nd</sup> wife) because Smt Gita Devi (1<sup>st</sup> wife) was issueless. Under Defence Service Regulation, Regulations for the Army (Revised Edition) 1987, Volume 1, Page 112, Para

333, such marriage is not permissible and it is treated as plural marriage. Defence person is not entitled to solemnize second marriage on the ground that his first wife is issueless. Ex Sep Ram Singh solemnised second marriage with Smt Basanti Devi during the life time of first wife, therefore, second marriage is null and void and, as such, applicant is not entitled for grant of family pension. Ex serviceman married with Smt Basanti Devi on 03.06.1979 without obtaining any decree of divorce from any court of law and while Smt Gita Devi (1<sup>st</sup> wife) was alive, hence marriage of applicant with Ex serviceman is void.

8. In view of the facts and circumstances of the case, we find that marriage of Smt Basanti Devi with the deceased soldier is not a legal marriage because as per Hindu Marriage Act, second marriage during subsistence of 1<sup>st</sup> marriage is null and void.

9. In the result, we hold that the claim of family pension has rightly been rejected by the respondents which needs no interference. Resultantly, O.A. is **dismissed**.

10 No order as to cost.

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

Dated: 01 June, 2022

Ukt/-