

**Court No.1**  
**RESERVED**

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

**Original Application No. 247 of 2015**

**Thursday, this the 25<sup>th</sup> day of February, 2021**

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

Meera Devi

Wife of Late C.P. Tripathi E.M.P.II No. 163995T

R/o Village – Devjani, Post – Pandari Mustarka,

Pargana & Tehsil – Patti, District – Pratapgarh

..... Applicant

Ld. Counsel for the Applicant: Shri Sharad Nandan Ojha,  
Advocate

Versus

1. Union of India through Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Chief of Naval Staff (Integrated Headquarter, Ministry of Defence (Navy).
3. Record Officer, Pension Beuro of Sailor Chitha Camp, Man Khurd, Mumbai.
4. Beuro of the Sailor, Chita Camp Man Khurd Mumbai – 400088.
5. The Principal Controller of Defence Account (N) Pension Cell, Mumbai.
6. The Staff Officer (Pension), Beuro of Sailors Chita Camp Man Khurd Mumbai – 400088.

..... Respondents

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

**ORDER**

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

“Wherefore it is most respectfully prayed that this Hon’ble Tribunal kindly pleased to grant special family pension to the petitioner since 24.01.2004 when her father in law died and family pension stopped along with interest of 18% per annum or from the application of petitioner and direct opp. Parties to take necessary action to meet the grievance of petitioner.”

2. The factual matrix of the case is that applicant’s husband was enrolled in the Indian Navy on 08.01.1986 and expired during service on 09.10.1987. The marriage of applicant was solemnized in childhood at the age of about 12 years with Late C.P. Tripathi, son of Late Rama Pati Tripathi according to Hindu rites and rituals on 28.05.1979 and after ‘Gauna’ she came to her in-laws house. Out of wedlock of applicant and her husband late C.P. Tripathi, a male child Alok Kumar was born. The husband of applicant has not disclosed his marriage at the time of his enrolment in the Indian Navy and had nominated his father as his next of kin, though he was married to applicant on 28.05.1979. After the death of her husband since her name was not mentioned in Navy documents, her father-in-law was awarded family pension vide PPO No. 09/97/B/F/13/1989 as per nomination of Next of Kin. Her father-in-law was looking after her but he also expired on 24.01.2004 and family pension was stopped. As a result applicant has no source of livelihood. On 20.04.2004, applicant represented to the authorities for grant of family pension. On 21.08.2004 applicant submitted relevant information and complete pension forms to Staff Officer (Pension) Bureau of the Sailors Cheetha Camp, Mankhurd, Mumbai, as asked by Naval authorities. Staff

Officer (Pension) sent a letter to District Collector, Pratapgarh, UP as well as Zila Sainik Board Pratapgarh to investigate whether Smt. Meera Devi was the legally wedded wife of the deceased sailor C.P. Triptahi, who died on 09.10.1987. Investigation and report of SDM Pratapgarh dated 01.04.2019 reveals that Meera Devi was married to C.P. Tripathi before his enrolment in Indian Navy. On 20.06.2005, 14.12.2010 and 03.06.2013, the applicant submitted further representations for grant of special family pension to her but till date she has not received any reply/pension.

3. Learned counsel for the applicant has placed reliance on the judgments of the Hon'ble Apex Court in the case of **Commissioner of Police Vs. Sandeep Kumar** cited in (2011) 4 SCC 644, decided on 17.03.2011 and **Collector, Land Acquisition vs. Mst. Kattijee** (AIR 1987, Page 1353), decided on 19.02.1987 and the Hon'ble High Court of Judicature at Allahabad (Lucknow Bench) in the case of **Prashant Kumar Singh vs. Union of India and others** (Writ-A No. 3547 of 2007), decided on 18.11.2011 and pleaded that in view of aforesaid judgments and being legally wedded wife, applicant should be paid special family pension.

4. Learned counsel for the respondents submitted that husband of applicant was enrolled in the Indian Navy on 08.01.1986 and died during service on 09.10.1987. During his service he had never declared his marriage rather had nominated his father Shri Ramapati Tripathi as his next of kin (NOK) at the time of his

enrolment. Therefore, after demise of the sailor, his father was sanctioned family pension according to rules being NOK. He was in receipt of family pension till his death on 29.01. 2004. After the death of applicant's father-in-law, she informed that she is the legally wedded wife of deceased sailor and she should be eligible for family pension. As per the records, the sailor died as single and there was no intimation regarding his marriage and birth of a male child. Hence she is not entitled for family pension and therefore, he pleaded for dismissal of O.A.

5. Learned counsel for the respondents further submitted that as per service conditions for recruitment in the Indian Navy, the individual should be unmarried at the time of joining service and therefore, the marriage before enrolment in the navy is against the service conditions. He also submitted that applicant never objected sanction of family pension to her father-in-law. Her claim for continuation of family pension was returned by PCDA (Navy), Mumbai on 28.05.1979 as there was no record of the wife and son of the deceased sailor mentioned in the kindred roll.

6. Heard learned counsel for the parties and perused the records.

7. Before adverting to rival submissions of learned counsel of both sides, it is pertinent to mention that judgments relied upon by the applicant in Para 3 referred above are not relevant in the present case being based on different facts and circumstances which are enumerated below :-

(a) **Commissioner of Police Vs. Sandeep Kumar**  
(Supra). In this case respondent had given a false

statement when he applied for the post of Head Constable in 1999. During attestation period his candidature was cancelled being concealment of the fact of involvement in criminal case for which he was involved under Section 325/34 IPC. Actually, this case was compromised between the parties and respondent was acquitted on 18.01.1998, therefore, the Hon'ble Court dismissed the appeal stating 'more lenient view should be taken in the matter' being respondent being acquitted before enrolment.

(b) **Collector, Land Acquisition vs. Mst. Kattjee (Supra)**. This case pertains to condonation of delay for enhancement of compensation in respect of acquisition of lands for a public purpose, hence, appeal was dismissed.

(c) **Prasant Kumar Singh vs. Union of India (Supra)**. In this case petitioner was recruited in CRPF on 25.11.2004. In Verification Roll required information was not filled about any arrest or conviction by court of law. On verification of District Magistrate, Jaunpur, it was found that a case under Sections 325/323/504 of IPC was registered against the petitioner. On 04.08.2006 services of the petitioner were terminated for concealment and suppression of material fact. Actually, in this case petitioner was acquitted of the charges in the Trial vide judgment dated 20.10.2008, therefore, the Hon'ble Court allowed the petition in view of law laid down by the Apex Court in the case of **Sandeep Kumar** (supra).

8. During arguments, it has also been agreed to by the learned counsel of both the parties that as per rules, only unmarried males are eligible to be enrolled as a Sailor in the Indian Navy and if husband of applicant had declared his marriage then he would have not been recruited in the Navy at that time. The Regulations for the Navy Part III Statutory, Art 261 (3) stipulates that “.....*The educational standards, as well as age limits and any other conditions of recruitment of sailors may be prescribed by the Government from time to time*”. It is under this provision the Navy has allowed only unmarried males to be eligible for enrolment.

9. Now turning to rival submissions, we would like to produce Section 70 of the Navy Act, 1957, which deals with fraudulent entry and reads as below :-

“70. **Fraudulent Entry.**—*Every person who upon entry into or offering himself to enter the naval service wilfully makes or gives any false statement whether orally or in writing to any officer or person authorised to enter or enrol sailors or others in or for such naval service, shall, if he has become subject to naval law, be punished with imprisonment of a term which may extend to five years or such other punishment as is hereinafter mentioned.*”

10. On reading Section 70 it is clear that this Section of the Navy Act imposes a duty on the Navy to dispense with the services of such person in case some material has been concealed willfully during enrolment. In the present case, if applicant's version is believed that she was married to deceased sailor prior to his enrolment in the Navy then, in that case, the deceased sailor's

enrolment being based on false declaration would per se be illegal and applicant would not only be not entitled to get special family pension but on the contrary he would be liable to return the salaries received as family pension by her father-in-law, as she has stated that her father-in-law was generous enough to hand over the pension amount to her. But we do not wish to examine this aspect of the matter, more so when prior to death of father of deceased sailor, it had never been disclosed that she had tied the knot with the deceased sailor prior to him being enrolled in the Navy.

11. It is pertinent to mention here that transfer of the pension to next eligible members is mentioned in the Regulation 120 of Navy Pension Regulation 1964. Since the late sailor had not disclosed his marriage at the time of joining Navy (nor subsequently), pension cannot be transferred to so called wife whose name is not held in the official records.

12. We have given our earnest consideration to the submission of the learned counsel for the parties. Keeping in view the gravity of offence and willful non disclosure of requisite information at the time of enrolment about his marriage by the deceased sailor, we are of the opinion that O.A. is devoid of merit and is accordingly, **dismissed.**

13. No order as to costs.

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

Dated: February, 2021  
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