

**Court No. 1****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 79 of 2018**Thursday, this the 25<sup>th</sup> day of March, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**Smt. Raj Kumari (Deceased)  
Through Ashok Kumar & AnotherApplicant No. 1/1 Shri Ashok Kumar  
S/o Late Pratap Singh Chauhan  
R/o Village – Mandak, Post – Hatelpur,  
Tehsil – Khair, District – Aligarh (UP)Applicant No. 1/2 Shri Satish Kumar Chauhan  
S/o Late Pratap Singh Chauhan  
R/o Village – Mandak, Post – Hatelpur,  
Tehsil – Khair, District – Aligarh (UP)**.... Applicants**Ld. Counsel for the Applicant : **Shri B.B. Tripathi,**  
Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad-211014.
3. The Chief Records Officer, Armoured Corps Abhilekh, PIN 900476 C/o 56 APO District Ahmadnagar PIN 414002.
4. The General Manager, Central Bank of India CPPC, CBI, MWO Building, 2<sup>nd</sup> Floor, Hukatma Chowk, Fort, Mumbai-400023.

**... Respondents**Ld. Counsel for the Respondents : **Shri Shyam Singh,**  
Central Govt Counsel.

**ORDER**

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

- “(a) Issue an order, direction and command to the respondents to pay family pension to the applicant to each and every month and also to pay arrears thereof from the date of death of her husband Pratap Singh Chauhan (10.12.2016) till the date of actual payment alongwith interest @ 12% per annum.
- (b) Issue an order, direction and command to the respondents to consider and decide the representation of the applicant, contained in Annexure no. 5 by passing a reasoned and speaking within the time frame so fixed by this Hon’ble Tribunal by granting the relief(s) as prayed for therein.
- (c) Issue such other order/direction which may be deemed just and proper in the circumstances of the case.
- (d) Allow the Original Application with cost against the respondents in view of the facts and circumstances, legal provisions and grounds raised in the Application.”

2. The present O.A. was filed by Smt. Raj Kumari who died during pendency of Original Application on 25.01.2018 and, after her death, her sons Shri Ashok Kumar and Shri Satish Kumar Chauhan have been substituted in her place by this Tribunal’s order dated 21.03.2018.

3. Brief facts of the case giving rise to this application are that the deceased soldier was enrolled in the Indian Army on 20.12.1960 and was discharged from service on 29.12.1982 after having rendered more than

22 years of service. The deceased soldier was getting service pension vide PPO No. SC/029538/1982. On 10.12.2016 soldier Pratap Singh Chauhan died. Thereafter, Smt Raj Kumari, wife of deceased soldier approached the respondents for grant of family pension vide her representation dated 06.01.2017. In reply, the respondents asked to widow of deceased soldier to submit some documents to enable her to sanction family pension vide their letter dated 11.05.2017. The widow of deceased soldier submitted all required documents to the respondent Nos. 2 and 3 vide her letter dated 10.07.2017. When the widow of deceased soldier did not receive any communication either from the respondent no. 2 or 3, she made another representation dated 15.10.2017 enclosing the same set of documents again which have already been sent pursuant to letter dated 11.05.2017. The respondent No. 2 wrote a letter to widow of the deceased soldier dated 19.12.2017 demanding the documents mentioned therein. Being aggrieved, the applicant has filed this Original Application.

4. Learned counsel for the applicant submitted that wife of the deceased soldier has supplied all documents which were asked by the respondents vide her letter dated 10.07.2017 and 15.10.2017 but inspite of that she has not been granted family pension. On 25.01.2018, Smt Raj Kumari also died and thereafter, present applicants have been substituted. Learned counsel for the applicant further submitted that since all the required documents have already been submitted to the respondents by Smt Raj Kumari, family pension for the period from the date of death of soldier i.e. 10.12.2016 to date

of death of Smt. Raj Kumari, widow of the deceased soldier i.e. 25.01.2018 should be granted to the present applicants being legal heirs.

5. On the other hand, learned counsel for the respondents submitted that joint notification has not been carried out in favour of Smt Raj Kumari by her late husband during his life time, hence, case could not be processed as the documents as asked by the respondents have not been provided by Smt. Raj Kumari. Though, during the arguments, learned counsel for the respondents asserted that case will be processed for grant of family pension for the period from the date of death of soldier i.e. 10.12.2016 to date of death of Smt. Raj Kumari, widow of the deceased soldier i.e. 25.01.2018 to present applicants .

6. We have heard learned counsel for the parties and perused the material placed on record.

7. We find that present applicants are entitled to receive family pension of her late mother for the period from the date of death of soldier i.e. 10.12.2016 to date of death of Smt. Raj Kumari, widow of the deceased soldier i.e. 25.01.2018, as per rules being legal heirs.

8. As a result, the O.A. is **allowed**. The impugned orders are set aside. The respondents are directed to grant family pension to present applicants for the period from the date of death of soldier i.e. 10.12.2016 to date of death of Smt. Raj Kumari, widow of the deceased soldier i.e. 25.01.2018. The respondents are directed to give effect to this order within four months from the date of receipt of

a copy of this order. Default will invite interest @ 8% per annum till actual payment.

9. No order as to costs.

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

Member (A)

Member (J)

Dated: March, 2021

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