

**Court No 1**

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

**ORIGINAL APPLICATION No. 790 of 2021**

Monday, this the 21<sup>st</sup> day of March, 2022

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

Vijay Singh Sikarwar S/o Keshav Singh Sikarwar, Father of Late Reghvendra Sikrwar (No. 3014004K NK) R/o Village & post Madhogarh, Tehsil – Kelaras, District-Morena (M.P), Pin 476224.

..... Applicant

Learned counsel for the : **Shri Ashok Kumar**, Advocate  
Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, Delhi-110011.
2. In charge Record office Rajput Regiment PIN-900427 C/o 56 APO.
3. Army Group Insurance Directorate Adjutant General Branch, AHQ West Block-III R.K. Puram, New delhi-110066.
4. Principal Controller of Defence Account (Pensions) Drapupadi Ghat, Allahabad.
5. Smt. Bhavna Sikarwar W/o Late Raghvendra Sikarwar (No. 3014004K), R/o Village & Post Madhogarh, Tehsil Kelaras, District-Morena ( M.P) Pin -476224.

.....Respondents

Learned counsel for the **Shri Arun Kumar Sahu**, Advocate  
Respondents. Central Govt. Counsel

**ORDER (Oral)**

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

- (i) *This Hon'ble Court may graciously be pleased to the respondents to release the AGI (Army Group Insurance) fund along with interest to the applicant being father of his son late Raghvendra Sikarwar who had died in harness in road accident on 20-2-2021.*
- (b) *This Hon'ble Court may further be pleased to pass such other and/or further order as deem fit, proper and necessary in the circumstances of this case.*
- (c) *Award costs to the applicant.*

2. Brief facts of the case are that No. 3014004K late Naik Raghvendra Sikarwar was enrolled in the Rajput Regiment of Indian Army on 20.10.2012. While serving with 6 Rajput and on 60 days annual leave he met with a road accident on 16.02.2021 in which he died on 20.02.2021 in Military Hospital, Agra. A Court of Inquiry (Annexure No 6 of CA) to this effect was held which declared his death as not attributable to military service. Accordingly, subsidiary and pensionary benefits were released in favour of Smt Bhavna Sikarwar (legally wedded wife) and she is in receipt of Ordinary Family Pension vide PPO No. 163202100580. Applicant who is father of the deceased soldier has filed this O.A. for grant of AGIF share and share in Ordinary Family Pension.

3. Learned counsel for the applicant pleaded that the deceased soldier was the only son of the applicant and he was

wholly dependent on him as he has no income for livelihood. He further submitted that his wife has already died in the year 2019. He further submitted that his daughter-in-law has left the home after receipt of whole money and started living at a place not known to him. The learned counsel pleaded that applicant is entitled to share of death benefits and family pension after demise of his son.

4. Per contra, learned counsel for the respondents submitted that the applicant is not entitled to share Ordinary Family Pension in terms of para 71 of Pension Regulations for the Army-2008. His further submission is that Smt Bhavna Sikarwar being widow of the deceased soldier is only entitled to receive AGIF and pensionary benefits. He pleaded for dismissal of O.A.

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

6. It is not in dispute that No 3014004K Nk Raghvendra Sikarwar of 6 Rajput met with an accident while on annual leave on 16.02.2021 and succumbed to his injuries on 20.02.2021 at Military Hospital, Agra. A Court of Inquiry was held and his death was declared as not attributable to military service. Accordingly, death benefits, as applicable, and Ordinary Family Pension were provided to Smt Bhavna Sikarwar (widow of the deceased soldier).

7. The applicant who is father of the deceased soldier has come forward by means of this O.A. to claim share of AGIF and Ordinary Family Pension. In this regard Army Instruction 51 of 1980, which deals with 'Grant of Ordinary Family Pension' reads as under:

*"In supersession of all existing orders on the subject, the family pensionary benefits, as detailed in paragraph 2 and subsequent paras will be admissible to the families of the Armed Forces personnel (excluding families of reservists), who were in services on 1.1.1964 or who joined/join service thereafter and who died/die while in service or after retirement with a retiring, disability or invalid pension/special pension account of causes which are neither attributable to nor aggravated by service."*

*Detailed procedure has been prescribed that what shall be rates of Ordinary Family Pension.*

*Clause 6 of Army Instruction 51 of 1980 says that:*

*"Family for the purpose of family pension means:*

- (i) Wife/Husband provided the marriage took place before retirement and also judicially separated wife / husband if the judicial separation was granted not on ground of adultery and the person surviving was not held guilty of committing adultery.*
- (ii) Sons below the age of 25 years.*
- (iii) Unmarried daughters below the age of 25 years.*
- (iv) Sons and daughters adopted legally upto the age limit (ii) and (iii) above.*

**Note:** *Sons or daughters born after retirement and also a posthumous child are entitled to Family Pension.*

*Clause 7 of Army Instruction 51 of 1980 says that:*

*"The pension will be admissible :-*  
*(a) To a widow or widower upto the date of death or disqualification whichever is earlier;*  
*(b) To a son until he attains the age of 25 years;*

*(c) To an unmarried daughter until she attains the age of 25 years or marriage whichever is earlier; Provided that if a son or daughter is suffering from any disorder or disability of mind or is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of 25 years the ordinary family pension shall be payable to such son or daughter for life. [MOD letter No. N49601/AG/PS-4(e)/3363/B/D(Pens/serv) dated 7/8/87]"*

8. With regard to payment of Ordinary Family Pension para 70 of Pension Regulations for the Army-2008 is also relevant, which for convenience sake, is reproduced as under:-

*"parents who were wholly dependent on the service personnel when he was alive provided the deceased had left behind neither a widow nor child may be granted ordinary family pension for life at normal rate as admissible under Regulation 64 (a) of these Regulations subject to the condition that their earning is not more than Rs 2550/- per month from all sources including pay, pension or self employment."*

9. We further observe that para 68 of Pension Regulation for the Army-2008 lays down that Ordinary Family Pension shall not be payable to more than one member of the family at the same time. It further provides that the Ordinary Family Pension shall first be payable to the surviving spouse and in his/her absence or in the event of his/her disqualification or death, to the eligible child in the order of birth irrespective of the sex of the child and the younger of them will not be eligible for family pension unless the elder above him becomes ineligible for the grant of Ordinary Family Pension.

10. The Record shows that Smt Bhavna Sikarwar is the childless widow of the deceased soldier and she is entitled to receive all dues related to No 3014004K late Nk Raghvendra Sikarwar who died on 20.02.2021.

11. In view of the facts explained above, applicant being not legal heir of the deceased soldier, nor is he eligible in terms of relevant Army Instruction or Pension Regulations for the Army-2008, he is not entitled to receive share of either AGIF or Ordinary Family Pension.

12. The O.A. is devoid of merit and is, accordingly **dismissed**.

13. No order as to costs.

14. Miscellaneous applications, pending if any, shall stand disposed of.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

Dated: 21March, 2022  
rathore

(Justice Umesh Chandra Srivastava)  
Member (J)