

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**Review Application No. 12 of 2022****Inre:****O.A. No. 71 of 2020****Union of India & Ors**

Review Applicants

vs.

Smt Vitana Devi

Respondent-Applicant

Thursday, this the 10th day of March, 2022**ORDER****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

1. This Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 has been preferred by the applicant-respondents against judgment and order of the Armed Forces Tribunal, Regional Bench, Lucknow dated 30.11.2021 passed in O.A. No. 71 of 2020.
2. Heard Shri Rajiv Pandey, learned counsel for the applicants-respondents and Shri Parijaat Belaura, learned counsel for the respondent-applicant.
3. Learned counsel for the applicants-respondents submits that in the judgment and order dated 30.11.2021 ex-gratia amount has been granted for which respondent-applicant is not entitled in terms of Regulation 140 of the Pension Regulations for the Army, 2008 (Part-I) and policy issued vide letters dated 04.06.2010 and 02.11.2016.
4. Learned counsel for the respondent-applicant submits that there is no error apparent at the face of record as this Tribunal has granted ex-gratia to the respondent-applicant after

considering all facts and circumstances of the case. He further submits that respondent-applicant is entitled for ex-gratia payment in terms of Regulation 140 of Pension Regulations for the Army, 2008 (Part-I). He also submits that policy letters issued in contravention of Regulation 140 shall not prevail over the Regulations.

5. In reply, learned counsel for the applicant-respondents submits that Regulation 140 does not stipulate the conditions in which ex-gratia can be granted rather policies made thereunder provide the conditions for grant of ex-gratia which respondent-applicant does not fulfill as the respondent-applicant was suffering from a disease which was cause of death and death has not occurred due to accident in the course of performance of duty.

6. Heard learned counsel for both the sides.

7. In the Review Application, the prayer made by the review applicants is that the order dated 30.11.2021 whereby the ex-gratia was allowed be reviewed in terms of the Govt of India, Min of Def letters dated 04.06.2010 and 02.11.2016.

8. We have gone through the order dated 30.11.2021 and rules governing to payment of ex-gratia amount and we find that while allowing the O.A. respondent-applicant was ordered to be granted ex-gratia amount inadvertently. On careful scrutiny of the rules governing the subject, we find that the respondent-applicant is not entitled to ex-gratia amount. We, therefore, find that there is an error apparent at the face of record which requires to be corrected.

9. Accordingly, para 19 of order dated 30.11.2021 is ordered to be deleted and subsequent paras of the judgment be re-numbered.

10. As a result of foregoing discussion, the Review Application is allowed to the extent of non grant of ex-gratia amount.

11. The review applicants be informed accordingly.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 10.03.2022
rathore