

RESERVED
Court No. 2
(Ser No 20)

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

ORIGINAL APPLICATION No. 200 of 2020

Wednesday, this the 29th day of March, 2023

Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Maj Gen Sanjay Singh, Member (A)

1. Arti Singh, Daughter of No. 13801897 (SEP/DVR) Brijendra Singh, Resident of ED 298, Sector Q, Aliganj, Lucknow(UP).
2. Pooja Singh, Daughter of No. 13801897(SEP/DVR) Brijendra Singh, Resident of ED 298, Sector Q, Aliganj, Lucknow (UP).

..... Applicants

Learned counsel for the:**Shri Gaurav Chand Kaushik**, Advocate
Applicant

Versus

1. Union of India through the Secretary to the Government of India Department of Ex-Servicemen Welfare, Ministry of Defence, New Delhi.
2. Chief of the Army Staff, IHQ of MoD (Army), New Delhi-110011.
3. Officer In-Charge, Adjutant General Branch, IHQ of MOD (Army), Wing No.-3, Ground Floor, West Block-III, R.K. Puram, New Delhi.
4. P.C.D.A (Pension), Draupadi Ghat, Allahabad-211014

.....Respondents

Learned counsel for the:**Shri Rajiv Pandey**, Advocate
Respondents. Central Govt. Counsel

ORDER

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

(i) To direct the opposite party to provide family pension to the applicants from the date of the death of the father of the applicants along with interest @ 9% per annum on the arrear amount.

(i)(a). To direct the opposite party to provide family pension to the applicant no.1 and also provide the arrears pertaining to the family pension from the date of the death of the father of the applicant along with interest @ 9% per annum on the arrear amount.

(i)(b). To direct the opposite party to provide arrears of family pension to the applicant no.2 from the date of the death of the father(01.12.2017) till the marriage of the applicant no.2 (05.02.2020) of the applicant along with interest @ 9% per annum on the arrear amount.

(ii) To grant any relief, order or direction as the Hon'ble Tribunal may deem fit, just and proper in the interest of justice.

(iii) Allow the Original Applicant With cost.

2. Brief facts of the case are that No. 13801897H Ex Sep (Late) Bijendra Singh was enrolled in the Army on 15.04.1963 and was discharged from service on 31.05.1979 under Rule 13 (III) (i) of Army Rules, 1954. He was in receipt of service pension w.e.f. 01.06.1979 vide PPO No. S/42987/79 dated 20.06.1979. The record shows that service pension was being paid to the pensioner through Indian Overseas Bank, Janki Puram, Lucknow saving bank account No. 302201000001349. He was married to Smt Sita Devi on 20.06.1975 but in service records particulars of children born out of above wedlock have not been mentioned. The pensioner's wife died on 04.01.2017

and he died on 01.12.2017. After death of her parents applicants have come forward for grant of family pension on the ground that they are unmarried and were totally dependent on her parents.

3. Learned counsel for the applicant submitted that applicant's are unmarried daughters of the deceased Army person who was in receipt of service pension. It was further submitted that after death of her parents they are entitled to grant of family pension in terms of Para 66 of Pension Regulations for the Army, 1961 (Part-I).

4. Learned counsel for the applicant further submitted that applicants are having no source of income and no means to sustain themselves and are very well covered under the definition of family for grant of family pension as per sub clause iii of Pension Regulations for the Army, 1961 (Part-I). It was further submitted that representation submitted in this regard on 22.12.2018 followed by reminders on 20.04.2019 and 25.09.2019 have not been given any heed, therefore this O.A. has been filed. In support of contention that applicants are daughters of the deceased soldier, photocopy of ration card has been filed on record.

5. On the other, learned counsel for the respondents submitted that Ex Sep (late) Bijendra Singh was enrolled in the Army on 15.04.1963 and he was discharged from service

w.e.f. 31.05.1979 (AN). It was further submitted that the deceased soldier was in receipt of service pension w.e.f. 01.06.1979 vide PPO dated 20.06.1979.

6. Learned counsel for the respondents further submitted that the deceased soldier was married to Smt Sita Devi on 20.06.1975 and no details of children born out of the wedlock are mentioned in the service records. It was further submitted that names of the applicants, stating to be daughters of the deceased soldier, have not been recorded in the service documents and the deceased soldier during his life time did not approach the Army authorities for publication of her names as daughters, therefore, Record Office is the sole agency to notify occurrence with regard to birth of children and in absence thereof, no family pension can be granted as claimed. He pleaded for dismissal of O.A. on the aforesaid grounds stating that representation dated 22.12.2018 and reminders were not received by the respondents.

7. Heard Shri Gaurav Chand Kaushik and Shri Navneet Awasthi, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents and perused the record.

8. It is undisputed fact of the parties that No 13801897H Ex Sep (late) Bijendra Singh was enrolled in the Army on 15.04.1963 and was discharged from service w.e.f. 31.05.1979

(AN). He was in receipt of service pension w.e.f. 01.06.1979 vide PPO dated 20.06.1979.

9. As per applicant the soldier, who was in receipt of service pension through Indian Overseas Bank, Janki Puram, Lucknow saving bank account No. 302201000001349, died on 01.12.2017 and his wife Smt Sita Devi died during his life time. Respondents contention in this regard is that they were not supplied any information with regard to death of Army person and his wife.

10. Respondents have refuted grant of family pension on the ground that in service documents of the deceased soldier names of applicants are not recorded. In this regard learned counsel for the applicant has supplied copy of ration card mentioning therein names of the applicants to establish that applicants are dependent daughters of the deceased soldier but we find that it is insufficient to establish that applicants are actual daughters of the deceased soldier.

11. We find that as per Para 219 of Pension Regulations for the Army, 1961 (Part-I) eligible unmarried/widowed/divorced daughters irrespective of her age are entitled for grant of family pension after death of pensioner and his wife subject to fulfilling of all other conditions as prescribed in the case of son/daughter.

12. We are in agreement with submission of the respondents that Record Office is the competent authority to notify the Part-II Order on receipt of mandatory documents like birth certificate, Aadhar Card, educational certificates, copy of family register and certificate

of Village Pradhan etc from the applicant to prove relationship with the deceased soldier. These documents are required to be furnished through concerned Zila Sainik Welfare Officer duly verified for publication of Part-II Order to enable the applicant to become eligible for grant of family pension, which documentation seems to have not been done so far.

13. We have perused original documents in respect of the applicant viz birth certificate, Aadhar Card, educational certificates, copy of family register etc and we find that the aforesaid documents are adequate to establish that applicant is eligible for grant of family pension. We further find that since Pooja Singh, the elder daughter of the deceased soldier, is married she is not entitled to receive family pension.

14. In view of the above, the O.A. is **allowed** directing the respondents to notify Part-II Order in respect of the applicant on the basis of documents submitted by Zila Sainik Welfare Officer vide letter dated 10.12.2020 and grant family pension to the applicant No 1 within a period of four months from today. Default will invite interest @ 8% p.a.

15. No order as to costs.

16. Miscellaneous application(s), pending if any, stand disposed of.

(Maj Gen Sanjay Singh)
Member (A)

Dated: 29.03.2023

rathore

(Justice Anil Kumar)
Member (J)