

**RESERVED**  
 (Court No. 2)  
 (Ser. No. 8)

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
 UCKNOW**

**ORIGINAL APPLICATION NO. 300 of 2022**

Friday, this the 24<sup>th</sup> day of March, 2023

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

Mrs Kamlesh Singh, M/o Late Lt Akash Chaudhary SS-50866L, R/o A-24 Silver City Colony, Kankerkhaura, District-Meerut, Uttar Pradesh PIN-250001.

.....Applicant

Learned Counsel for : **Shri Pawan Bisht**, Advocate  
 the Applicant **Ms Priyanka Chaudhary**, Advocate

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Chief of the Army Staff, Army Headquarters, New Delhi.
3. Adjutant General Branch, Integrated Headquarters of MoD (Army), West Block, RK Puram, New Delhi PIN-110066.
4. 12 SIKH LI, having its Record Office at Fatehgarh, Uttar Pradesh, PIN – 912312 C/o 56 APO.
5. Controller of Defence Accounts (P) Allahabad, Draupadi Ghat, Sadar Bazar, Prayagraj, Uttar Pradesh, PIN-211014.

..... Respondents

Learned Counsel for the : **Dr. Chet Narayan Singh**, Advocate  
 Respondents Central Govt counsel.

**ORDER**

1. By means of this Original Application filed under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has prayed the following reliefs:

*(a) To issue an order to summon the entire records after calling to quash the impugned letter from respondent no 5 dated 03.02.2022, pertaining to the rejection of Liberalized Family Pension.*

*(b) To issue an order in the favour of applicant to direct respondent no 5 to pay applicant's revised liberalized family pension from the date of death of late Lt Akash Chaudhary i.e. 17.07.2020 alongwith 12% interest in the arrear of pension.*

*(c) To issue or pass an order to clear dues of applicant such as ex – gratia fund which is granted to the next of kin of battle casualties.*

*(d) To allow this instant application with cost.*

2. The factual matrix of the case is that late Lt Akash Chaudhary (son of the applicant) was commissioned in the Army on 07.03.2020. He was attached to 12 SIKH LI and during that period while taking part in Operation Rhino, he went missing on 16.07.2020 along with carbine and bayonet. After thorough search on 17.07.2020 he was found lying in unconscious state at Tokhrabandha Heights and was declared dead by Regimental Medical Officer (RMO). Since the matter was under investigation, in order to support family, Ordinary Family Pension was granted to his mother w.e.f.

18.07.2020 vide PPO No. 131202100150. Later, by order dated 09.07.2021 Min of Def declared his death as battle casualty and a letter dated 16.07.2021 was issued to PCDA (P), Allahabad for grant of Liberalized Family Pension to NOK (i.e. the applicant) of the deceased officer which being denied by pension sanctioning authority vide letter dated 03.02.2022, hence this O.A. has been filed for grant of Liberalized Family Pension.

3. Learned counsel for the applicant submitted that since death in respect of son of the applicant was declared as battle casualty by the MoD (Army) after completion of departmental inquiry, she is entitled to get Liberalized Family Pension and entitled ex-gratia sum. It was further submitted that since the deceased officer was posted at Kokrajhar and he died during action while he was participating in Operation Rhino, Govt of India MoD (Army) granted battle casualty status as per Appendix 'A' to Army Order 1/2003 and certificate dated 09.07.2021.

4. Learned counsel for the applicant further submitted that death of applicant's son falls under category E f(ii) of instructions for grant of Liberalized Family Pension i.e. 'battle inoculation training exercises or demonstration with live ammunition', therefore applicant is entitled to

get Liberalized Family Pension instead of Ordinary Family Pension which is being paid at present.

5. On the other hand, learned counsel for the respondents submitted that late Lt Akash Chaudhary (SS-50866) got commissioned on 07.03.2020 from Officers Training Academy (OTA), Chennai. It was further submitted that after commission applicant's son was attached for one year w.e.f. 26.05.2020 with 12 SIKH LI at Assam Kokrajhar which was an active counter insurgency area. It was further submitted that while coming from Ultapani post on 16.07.2021 he went missing and on the other day his body was found in unconscious state. He was declared brought dead by RMO.

6. Learned counsel for the respondents while filing counter affidavit in Paras 8 and 19 submitted that since death in respect of applicant's son is attributable to military service in counter insurgency area, which was a Govt notified operation consisting of an exercise having tactical march with full load at Tokhrabandha heights at Dhubri District Assam, applicant is eligible for grant of Liberalized Family Pension.

7. Learned counsel for the respondents further submitted that though it was conveyed to PCDA (P), Allahabad vide letter dated 16.07.2021 that applicant is

eligible for grant of Liberalized Family Pension, yet the pension sanctioning has not accepted the same and turned down the case vide letter dated 03.03.2022. Concluding his submission, learned counsel for the respondents submitted that applicant be granted liberalized family pension instead of Ordinary Family Pension.

8. Heard Shri Pawan Bisht, Learned Counsel for the applicant and Dr. Chet Narayan Singh, Learned Counsel for the respondents and perused the record.

9. For adjudication of the controversy involved in the instant case, we need to find answer to a question whether death in respect of applicant's son is a case of battle casualty or otherwise. The record shows that applicant's son died while participating in an active operation and his death was declared as a case of Battle Casualty vide letter dated 09.07.2021. However, the case for grant of Liberalized Family Pension claim which was forwarded, was not accepted by PCDA (P), Allahabad vide letter dated 03.02.2022. Applicant is in receipt of Ordinary Family Pension and her claim is for grant of Liberalized Family Pension.

10. Reply has been filed on behalf of the respondents conceding grant of Liberalized Family Pension to the

applicant. For convenience sake Paras 8, 19, 23, 24, 25 and 26 of counter affidavit are reproduced as under:-

"8. That on 16.07.2020 Lt Akash Chaudhary along with various others army men participated in operation Rhino, which is a Government notified operation which consist of an exercise having tactical march with full load at Tokhrabandha heights at Khubri district Assam, which is an active counter insurgency area.

19. That on 16.07.2021 intimation from Adjutant General branch was received by applicant informing about the death benefit of Battle Casualty. "As per the letter applicant was eligible to get revised family pension from ordinary to liberalised family pension from date of officer's death."

23. That the respondent No 5 without application of mind ultra vires and unlawfully rejected the claim of the applicant.

24. That the applicant had sent various representation with respondent but nothing had been reverted so far by the respondent No 5.

25. That the applicant as well as her family will suffer a huge irreparable financial hardships if the impugned order of rejection of liberalized family pension is not revised.

26. That the applicant continuously representing the respondent authorities for doing the needful so that the applicant may get liberalized family pension."

11. Extract of Adjutant General's Branch, IHQ of MoD (Army) letter dated 16.07.2021, intimating PCDA (P), Allahabad for grant of Liberalized Family Pension to applicant, is reproduced as under:-

"2. The officer had died on 17 Jul 2020 during operationally oriented training in preparation for actual operations at Tokarabandha in Dhubri, Assam, in OP RHINO. Casualty of the officer has been classified as Battle Casualty vide this HQ letter No 12822/AG/SS50866L/2020/MP-5(D) dated 09.07.2021 (copy enclosed).

3. You are requested to notify PPO for grant of Liberalised Family Pension in favour of Mrs Kamlesh Singh (mother of the deceased offr) immediately and arrange to submit a copy of PPO to this Dte for our record."

12. In our view, even within the meaning of letter dated 09.07.2021, the case clearly falls in category 'E' of Govt of

India, MoD letter dated 31.01.2001 and, therefore, the applicant is entitled to Liberalized Family Pension, which has been wrongly refused by PCDA (P), Allahabad vide letter dated 03.02.2022.

13. Consequently, the O.A. is **allowed** and the respondents are directed to grant Liberalized Family Pension to the applicant w.e.f. 18.07.2020, as it is found to have become payable to him. The respondents are further directed to make calculations of the amount so becoming payable to the applicant and make payment to her within a period of four months from the date of receipt of a certified copy of this order, as prayed. Applicant is also entitled to ex-gratia lump-sum as applicable. It is made clear that if the payment is not made within four months, the amount shall carry interest @ 8% p.a. from the date the amount became due till actual payment.

14. No order as to costs.

15. Pending miscellaneous application(s), if any, shall stand disposed off.

**(Maj Gen Sanjay Singh)**  
**Member (A)**

Dated: 24.03.2023

*rathore*

**(Justice Anil Kumar)**  
**Member (J)**