

**RESERVED**  
(Court No 2)

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

**Original Application No. 1023 of 2023**

Thursday, this the 04<sup>th</sup> day of April, 2024

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

Smt Heera Devi @ Heera Singh (childless widow of Ashok Kumar Singh, late Sep No 2987629-F) W/o Veerendra Bahadur Singh, R/o Vill & Post-Maholi, Tehsil-Sohawal, P/S-Raunahi, Distt-Faizabad/Ayodhya (now).

.... Applicant

Ld. Counsel for the: **Shri Parijaat Belaura**, Advocate  
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff, Army Headquarters, Ministry of Defence, Government of India, South Block, New Delhi-110011.
3. Officer-in-Charge, Records the Rajput Regiment, Fatehgarh (UP)-209601.
4. The Principal Controller of Defence Account (Pension), Draupadi Ghat, Allahabad (UP)

... Respondents

Ld. Counsel for the: **Shri Sunil Sharma**, Advocate  
Respondents Central Govt Counsel.

**ORDER**

1. This O.A. has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 through which following prayers have been made:-

(i) To grant Special Family Pension w.e.f. 01.01.2006 as per GOI, MoD letter dated 06<sup>th</sup> Jan 2011 and PCDA Circular No 479 dated 17.02.2012 along with 12% interest.

(ii) Any other suitable relief this Hon'ble Court deems fit and proper may also be granted.

2. Brief facts of the case are that applicant's husband was enrolled in the Army (The Rajput Regiment) on 28.08.1987. While serving with 3 RAJPUT, he was granted 60 days annual leave from 20.05.1990 to 20.07.1990. During his leave period, he met with an accident and expired on 01.06.1990 at his home town. After death of the serving soldier, applicant was granted Ordinary Family Pension vide PPO No. F/NA/476/91 dated 07.02.1991. Later, after her re-marriage on 16.05.1993, her Ordinary Family Pension was discontinued. Thereafter, Smt Sarla Devi, mother of the deceased soldier applied for grant of Ordinary Family Pension which was rejected vide letter dated 12.12.1996 on the ground that as per Army Instruction 51/80, Ordinary Family Pension is inadmissible to parents on re-marriage of widow.

3. After rejection of her claim, Smt Sarla Devi filed Writ Petition No. 1990 (SS) of 2007 before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench which on transfer to this Tribunal

was re-numbered as T.A. No. 22 of 2009. The said petition was allowed vide order dated 13.01.2011 directing the respondents to consider grant of family pension afresh in the light of the order within a period of four months. Subsequently, the respondents carried out investigation through Army Recruiting Officer, Amethi. After investigation, it was found that Smt Sarla Devi was not dependent on her deceased son, therefore, family pension was denied.

4. On 27.03.2021, applicant approached Records, the Rajput Regiment for restoration of her family pension. In response to her application, she was advised to forward certain documents. The documents in question were supplied through Zila Sainik Kalyan Evam Punarvas Karyalaya, Ayodhya on 16.09.2022, but, after scrutiny it was found that copies of last payment certificate and re-marriage registration certificate were not attached. The applicant is stated to have visited Senior Treasury Office, Sultanpur for issue of last payment certificate which could not be issued in view of facts mentioned in letter dated 06.07.2022, but they have stated that applicant was a family pensioner and family pension was disbursed to her through Treasury Office, Faizabad. This O.A. has been filed for grant of Ordinary Family Pension to the applicant.

5. Per contra, learned counsel for the respondents submitted that after death of applicant's husband, she was granted Ordinary Family Pension w.e.f. 02.06.1990, but after her re-marriage on

16.05.1993, Ordinary Family Pension was stopped. Later, Smt Sarla Devi, mother of the deceased soldier applied for grant of Ordinary Family Pension which was denied vide letter dated 12.12.1996 on the pretext of AI 51/80. It was further submitted that on denial of Ordinary Family Pension, Smt Sarla Devi filed Civil Writ Petition No 1990 (SS) of 2007 before the Hon'ble High Court of judicature at Allahabad, Lucknow Bench which was allowed vide order dated 13.01.2011 directing the respondents to consider whether the applicant was wholly dependent on deceased soldier or otherwise as per the eligible criteria within a period of four months from the date of the order. Subsequently, respondents carried out investigation with regard to dependency of Smt Sarla Devi on the deceased soldier. After the investigation, when it was found that Smt Sarla Devi was not dependent on the deceased soldier, she was denied grant of Ordinary Family Pension vide letter dated 01.03.2012 (Annexure R-5) in terms of policy letter dated 24.11.1999.

6. Learned counsel for the respondents further submitted that subsequent to aforementioned proceedings, the applicant approached the respondents after 09 years on 27.03.2021 for restoration of her Ordinary Family Pension. Thereafter, correspondence with regard to grant of Ordinary Family Pension started and after protracted correspondence, last payment certificate and copy of registration certificate of second marriage

could not be supplied by the applicant which resulted in non processing of her claim with the PCDA (P), Allahabad. It was further submitted that as soon as above certificates are received from the applicant, pension claim would be processed.

7. Heard learned counsel for the parties and perused the record.

8. Applicant's husband being enrolled in the Army on 28.08.1987 died on 01.06.1990 due to accident while availing leave at his home town. During the course of his service, Smt Heera Devi (applicant) was married with the deceased soldier and her name is recorded in service documents. After her husband's death she was granted Ordinary Family Pension vide PPO No. F/NA/476/91 dated 07.02.1991. The applicant's family pension was stopped w.e.f. 15.05.1993 on her re-marriage with Shri Veerendra Bahadur Singh.

9. In the year 1996, applicant's mother-in-law approached Records, the Rajput Regiment for grant of Ordinary Family Pension which being denied by PCDA (P), Allahabad vide letter dated 12.12.1996, she filed Civil Writ Petition No. 1990 (SS) of 2007 before the Hon'ble High Court of Judicature at Lucknow Bench. The said petition was allowed vide order dated 13.01.2011 directing the respondents to consider the question of payment of family pension afresh in the light of the order passed. Subsequently, the respondents took up case with civil authorities to carry out investigation in accordance with policy letter dated

24.11.1999. Accordingly, Army Recruiting Office (ARO), Amethi carried out investigation in the matter in which it was found that Smt Sarla Devi was not dependent on her deceased son at the time of death. Based on findings of the investigation report, she was denied grant of Ordinary Family Pension vide letter dated 01.03.2012.

10. About nine years after the aforementioned proceedings, the applicant approached the respondents on 27.03.2021 for restoration of her Ordinary Family Pension. The Records, Rajput Regiment asked the applicant to submit certain documents including last pay certificate and re-marriage registration certificate. Though some of the documents have been submitted, yet last pay certificate and re-marriage registration certificate have not been submitted. Respondents' contention is that case for grant of Ordinary Family Pension can only be processed on receipt of all requisite documents.

11. We find that copy of re-marriage registration certificate No. 202112300072 is on record (page 57 of O.A.) and in regard to issue of last pay certificate applicant had approached Senior Treasury Officer, Sultanpur on 20.05.2022. In response to her application, Senior Treasury Officer, Sultanpur has issued letter dated 06.07.2022 in which the following is mentioned:-

"X X X X प्रकरण अंतर्गत परीक्षणोंपरांत यह पाया जाता है कि आवेदिका श्रीमती हीरा देवी कोषागार फैजाबाद से पारिवारिक पेंशनर थी एवं उक्त पेंशन का

*स्थानान्तरण कोषागार सुल्तानपुर को किया गया था जिसका प्रमाण पेंशन अलाटमेंट रजिस्टर पर दर्ज है किन्तु कोषागार अभिलेखों, चेक रजिस्टर एवं पेंशन भुगतान पोस्टिंग रजिस्टर वित्तीय वर्ष 1991-92 व 1992-93 पर मिलान किये जाने पर श्रीमती हीरा देवी पत्नी स्व. अशोक कुमार सिंह TS No F10591 पर कोई भुगतान होना नहीं पाया जाता है, अतः वर्णित परिस्थितियों में अंतिम भुगतान प्रमाण-पत्र निर्गत किया जाना संभव नहीं है”*

(underlined by us)

12. It appears from the letter dated 06.07.2022 that Treasury Office, Sultanpur is unable to issue last pay certificate to the applicant due to transfer of pension account from Faizabad to Sultanpur, but the fact remains that the applicant has been drawing family pension through Treasury Office, Faizabad after demise of her husband. Letter dated 06.07.2022 further reveals that this pension account was transferred from Treasury Office, Faizabad to Treasury Office, Sultanpur, the details of which are available in allotment register but record of financial year 1991-92 and 1992-93 indicates that no disbursement of family pension was made to Smt Heera Devi. In the circumstances, it is clear that the applicant being childless widow had received family pension of her deceased husband through Treasury Office, Faizabad but it was subsequently stopped on her re-marriage. In regard to grant of family pension to issueless widow after re-marriage, Govt of India, MoD has issued letter dated 06.01.2012 as per which applicant is entitled for grant of ordinary family pension. For convenience sake, letter dated 06.01.2012 is reproduced as under:-

*"The undersigned is directed to refer to this Ministry's letter No. 17(4)2008(2)ID(Pen/Policy) dated 12.11.2008, issued for*

*implementation of Government decisions on the recommendations of 6th CPC for revision provisions regulating Pension/Gratuity/Commutation of Pension/ Family Pension etc. for the Armed Forces Officers and Personnel Below Officer Rank (PBOR) retired or died in harness on or after 1.1.2006.*

*2. As per provisions contained in Para 11.3 of this Ministry's above said letter dated 12.11.2008, the childless widow of a deceased Armed Forces personnel shall continue to be paid family pension even after her remarriage subject to the condition that the family pension shall cease once her independent income from all sources becomes equal to or higher than the minimum prescribed family pension in the Central Government.*

*3. Consequent upon receipt of certain references from various quarters seeking clarification regarding applicability of above mentioned provisions in cases where death of a employee took place prior to 1.1.2006 and childless widow of the-deceased employees got remarried before/on or after 1.1.2006, Ministry of Personnel, Public Grievances & Pension, Department of Pension & Pensioners' Welfare, New Delhi vide their OM NO 1/4/2011-P&PW(E) dated 1st April, 2011 has decided in consultation with Ministry of Finance (Department of Expenditure) that the childless' widow of a deceased employee who expired before 1.1.2006, shall also be eligible for family pension irrespective of the fact that the remarriage of the widow had taken place prior to/on or after 1.1.2006 subject to fulfilment of other conditions. The financial benefits in such cases has, however, been allowed from 1.1.2006.*

*4. The matter has been examined in this Ministry and it has been decided that the provisions of Ministry of Personnel, Public Grievances & Pension, Department of Pension & Pensioners' Welfare, New Delhi above said OM dated 1st April, 2011 shall mutatis mutandis apply to the Armed Forces Personnel.*

*5. This issues with the concurrence of Finance division of this Ministry vide their UO No 55/Fin/Pen dated 4/01/12."*

13. The financial benefits of the aforementioned policy have been made effective w.e.f. 01.01.2006 with condition that the family pension shall cease once her independent income from all sources becomes equal to or higher than the minimum prescribed family pension in the Central Government. The applicant has filed digital income certificate No. 473211021073 dated 07.08.2021 (page 47 of O.A.) as per which applicant's monthly income is not more than Rs 3,500/- per month.

14. In view of the above, O.A. is **allowed** with directions to the respondents to restore her Ordinary Family Pension as she was drawing earlier through PPO No. F/NA/476/91, but due to law of limitation applicant is entitled to Ordinary Family Pension w.e.f. three years preceding the date of filing of this O.A. which was filed on 24.08.2023. Applicant is directed to submit copies of re-marriage certificate, income certificate and letter dated 06.07.2022 of Treasury Office, Sultanpur to Records, Rajput Regiment through Zila Sainik Karyalay, Ayodhya within one month. The respondents are directed to pay family pension to the applicant within a period of four months on receipt of certified copy of this order after verifying the genuineness of the documents. Default will invite interest @ 8% p.a.

15. No order as to cost.

16. Pending applications, if any, are disposed off accordingly.

17. Departmental Representative for the respondents orally submitted to grant leave to appeal against the above order, which we have considered and no point of law of general public importance being involved in this case, the plea is rejected.

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

Dated: 04.04.2024  
*rathore*

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

RESERVED**(Court No 2)**

Form No. 4

**{See rule 11(1)}**  
**ORDER SHEET**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW

O.A. No. 1023 of 2023

Smt Heera Devi

Applicant

By Legal Practitioner for the Applicant : **Shri Parijaat Belaura**, Advocate

Versus

Union of India &amp; Ors

Respondents

By Legal Practitioner for Respondents : **Shri Sunil Sharma**, Advocate

Notes of the Registry	Orders of the Tribunal
	<p data-bbox="440 1481 602 1516"><u>04.04.2024</u></p> <p data-bbox="440 1516 1122 1553"><u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u></p> <p data-bbox="440 1553 1122 1591"><u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p data-bbox="548 1642 846 1677">Judgment pronounced.</p> <p data-bbox="548 1693 992 1728">O. A. No. <b>1023</b> of 2022 is allowed.</p> <p data-bbox="548 1744 1425 1779">For orders, see our judgment and order passed on separate sheets.</p> <p data-bbox="467 1878 792 1946"><b>(Maj Gen Sanjay Singh)</b> Member (A)</p> <p data-bbox="451 1946 537 1972"><i>rathore</i></p> <p data-bbox="1016 1878 1300 1946"><b>(Justice Anil Kumar)</b> Member (J)</p>