

**(RESERVED)**  
**(Court No 2)**

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

**Original Application No. 1052 of 2023**

Thursday, this the 27<sup>th</sup> day of March, 2025

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

Ranjana Pandey wife of No 15344972Y late Spr Akhilesh Kumar Pandey, R/o FAFA Qtr No 61/1DRC Cantt, MH Road (Faizabad), Ayodhya, U.P.-424001, Permanent resident of Vill & PO-Kharuvanv, Ambedkar Nagar, U.P.-224137.

.... Applicant

Ld. Counsel for the: **Shri Raj Kumar Mishra, Advocate**  
Applicant **Shri Narayan Dutt Mishra, Advocate**

Versus

1. The Union of India through Secretary, Ministry of Defence (Army), South Block, New Delhi-110010.
2. Chief of the Army Staff, IHQ of MoD (Army), South Block, New Delhi.
3. Additional Directorate General Personnel Services, Adjutant General's Branch, IHQ of MoD (Army), 'A' Block, 5<sup>th</sup> Floor, Defence Office Complex, KG Marg, New Delhi-110001.
4. Officer-in-Charge Records, Bengal Engineer Group Records, PIN-900477, C/o 56 APO.
5. PCDA (Pension), Draupadi Ghat, Allahabad.

.... Respondents

Ld. Counsel for the: **Shri Ashish Kumar Singh, Advocate**  
Respondents **Central Govt Counsel.**

## ORDER

1. Applicant's husband being enrolled in the Army on 14.01.2003 and posted with 235 Engineer Regiment reported chest pain on 05.07.2021 at about 1925 hrs. He was admitted to 174 Military Hospital (MH) on same day where he died at 2145 hrs due to "ACS (Acute Coronary Syndrome), STE (ST Elevated) and AWMI (Anterior Wall Myocardial Infarction)". After death of applicant's husband, 'certificate of attributability-fatal case' was issued by the Commanding Officer of the unit in which his death was declared as attributable to military service, but the medical authorities declared his death as neither attributable to nor aggravated by military service. She was granted ordinary family pension w.e.f 06.07.2021 vide PPO No. 212202100728. The applicant being in receipt of ordinary family pension submitted representation for grant of special family pension, which was rejected vide letter dated 22.12.2022 (Annexure No 1). Thereafter, first appeal dated 16.03.2023 was preferred by the applicant which is still pending. Being aggrieved with denial of special family pension, applicant has filed this O.A. under Section 14 of the Armed Forces Tribunal Act, 2007 for grant of following reliefs:-

*(i) To issue/pass an order or direction to set-aside/quash the letter/order dated 22.12.2022 passed by the respondent No 4, which is being annexed as Annexure No 1 to this Original Application.*

*(ii) To issue/pass an order or direction to the respondents to grant of Special Family Pension to the applicant from 06.07.2021 (next date of death of applicant's husband) alongwith @ 12% interest on arrear.*

*(iii) To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.*

*(iv) To allow this original application with costs.*

2. Learned counsel for the applicant submitted that husband of the applicant was enrolled in the Army on 14.01.2003. He further submitted that being on bonafide military duty on 05.07.2021, applicant's husband brought volleyball team to unit location and suddenly felt chest pain. He was admitted to 174 MH where he died due to "ACS (Acute Coronary Syndrome), STE (ST Elevated) and AWTMI (Anterior Wall Myocardial Infarction)' on 05.07.2021 at about 2145 hrs.

3. Learned counsel for the applicant further submitted that applicant's husband was fully fit in all respects at the time of enrolment and the disease/disability which caused his death is due to service conditions. Further submission of learned counsel for the applicant is that since applicant's husband was on bonafide military duty at the time of death, his death should be attributable to/aggravated by military service and denial of special family pension to deceased soldier's wife is arbitrary in nature. Relying upon para 47 to Chapter vi and vii of Guide to Medical Officers-2008 (Military Pensions), learned counsel for the applicant contended that NOK-wife of the deceased soldier is entitled to Special Family Pension.

4. Reliance has also been placed by learned counsel for the applicant on the following orders:-

(i) O.A. No. 382 of 2021, **Ex Sep (DSC GD) Sushil Kumar vs Union of India & Ors** decided by AFT (RB), Lucknow.

(ii) Order dated 25.07.2006 passed by Punjab and Haryana High Court in Civil Writ Petition No. 16248 of 2005, **Chanchal Devi vs Union of India & Ors**.

(iii) Order dated 05.09.2024 passed by AFT (RB), Lucknow in O.A. No. 776 of 2022, **Poonam Choudhary vs UOI & Ors**.

5. On the other hand, learned counsel for the respondents submitted that the applicant's husband was enrolled in the Army on 14.01.2003 and he died on 05.07.2021 at 174 MH due to "ACS (Acute Coronary Syndrome), STE (ST Elevated) and AWTMI (Anterior Wall Myocardial Infarction)". It was further submitted that since as per AFMSF-93 Part-II (Ver-2002) (Annexure R-1), the cause of death is not attributable to/aggravated by the military service, applicant is not entitled to special family pension. He further submitted that in view of denial of attributability/aggravation vide AFMSF-93 Part-II (Ver-2002), special family pension is not admissible to the applicant as her husband's fatal disease is neither attributable to nor aggravated by military service.

6. Learned counsel for the respondents further submitted that as per autopsy report dated 06.07.2021 issued by Classified Specialist (Pathology), fatal disease of the applicant's husband, who was a chronic cigarette smoker as well as a social drinker, has been regarded as neither attributable to nor aggravated by military service. It was further submitted that as per para 105 of Pension Regulations for the Army-2008 (Part-I), special family pension may be granted to the family of service personnel, if his death occurred in the circumstances mentioned in category 'B' and 'C' of Regulation 82 of these Regulations due to or hastened by (i) a wound, injury or disease which was attributable to military service or (ii) was due to aggravation by service of a wound, injury or disease which existed before or arose during service and in case of death after retirement/discharge provided that the service personnel had retired/discharged other than voluntarily/at own request on compassionate grounds before completion of terms of engagement. It was

submitted that fatal disease of the applicant's husband being not covered under category 'B' and 'C' of Regulation 82, she is not entitled to special family pension. He pleaded for dismissal of O.A.

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

8. Admittedly, the applicant's husband was enrolled in the Indian Army on 14.01.2003. During the course of service on 05.07.2021 while posted at 235 Engineer Regiment, he, being driver of military vehicle, was detailed to bring volleyball team from play ground to unit location. On reaching unit location, at about 1925 hrs he reported chest pain. He was admitted to 174 MH where during the course of treatment he died at about 2145 hrs due to "ACS (Acute Coronary Syndrome), STE (ST Elevated) and AWTMI (Anterior Wall Myocardial Infarction)'.

9. Before proceeding further, we would like to determine whether applicant's husband was on duty when he died due to 'ACS (Acute Coronary Syndrome), STE (ST Elevated) and AWTMI (Anterior Wall Myocardial Infarction)'. With regard to definition of 'duty' we rely on Appendix II of Clause 12 of Entitlement Rules for Casualty Pensionary Awards-2008 which defines the word duty, which for convenience sake, is reproduced as under:

*"DUTY: 12. A person subject to the disciplinary code of the Armed Forces is on "duty":- (a) When performing an official task or a task, failure to do which would constitute an offence triable under the disciplinary code applicable to him.*

*(b) When moving from one place of duty to another place of duty irrespective of the mode of movement.*

*(c) During the period of participation in recreation and other unit activities organised or permitted by Service Authorities and during the period of travelling in a body or singly by a prescribed or organised route.*

*Note:1*

- (a) *Personnel of the Armed Forces participating in-*
- (i) *Local/national / international sports tournaments as member of service teams, or,*
  - (ii) *Mountaineering expeditions / gliding organised by service authorities, with the approval of Service Hqrs will be deemed to be "on duty" for purposes of these rules.*

*(b) Personnel of the Armed Forces participating in the above named sports tournaments or in privately organised mountaineering expeditions or indulging in gliding as a hobby in their individual capacity, will not be deemed to be on duty for purposes of these rules, even though prior permission of the competent service authorities may have been obtained by them.*

*(c) Injuries sustained by the personnel of the Armed Forces in impromptu games and sports outside parade hours, which are organised by, or disability arising from such injuries, will continue to be regarded as having occurred while „on duty for purposes of these rules.*

**Note: 2**

*The personnel of the Armed Forces deputed for training at courses conducted by the Himalayan Mountaineering Institute, Darjeeling shall be treated on par with personnel attending other authorised professional courses or exercises for the Defence Services for the purpose of the grant of disability family pension on account of disability/death sustained during the courses.*

*(d) When proceeding from his leave station or returning to duty from his leave station, provided entitled to travel at public expenses i.e. on railway warrants, on concessional voucher, on cash TA (irrespective of whether railway warrant/cash TA is admitted for the whole journey or for a portion only), in government transport or when road mileage is paid/payable for the journey.*

*(e) When journeying by a reasonable route from one's quarter to and back from the appointed place of duty, under organised arrangements or by a private conveyance when a person is entitled to use service transport but that transport is not available.*

*(f) An accident which occurs when a man is not strictly on duty as defined may also be attributable to service, provided that it involved risk which was definitely enhanced in kind or degree by the nature, conditions, obligations or incidents of his service and that the same was not a risk common to human existence in modern conditions in India. Thus for instance, where a person is killed or injured by another party by reason of belonging to the Armed Forces, he shall be deemed „on duty" at the relevant time. This benefit will be given more*

*liberally to the claimant in cases occurring on active service as defined in the Army/Navy/Air Force Act.”*

10. The term ‘duty’ being the decisive factor has an important role to play for grant of special family pension to family of the deceased soldier. A Commanding Officer is the officer in command of any unit of installations in the Armed Forces who is empowered to certify whether a person is on duty or not. After death of applicant’s husband, the Commanding Officer in form AFMSF-93 Part-II (version-2002) (Annexure R-1) has endorsed that ‘the death of the indl is attributable to mil service as while the indl participating Regt game period, feeling sudden chest pain and admitted in ICU, 174 MH (Bathinda), he was declared dead’. This shows that the applicant, being on duty participating in Regimental game, developed sudden chest pain and died in 174 MH on 05.07.2021.

11. During the course of hearing, it was informed that the deceased soldier was Mechanical Transport (MT) Driver. Thus, keeping in view the aforementioned ruling, statement of Commanding Officer (Annexure R-1) and the fact that the deceased soldier was tasked to bring back volleyball team by military vehicle in the evening and thereafter, he being admitted to hospital on 05.07.2021 due to chest pain and died on same day, he seems to be on duty and his fatal disease may be regarded as attributable to or aggravated by military service. For convenience sake, extract of statement given by the Commanding Officer is reproduced as under:-

*“11. Do you consider the death is attributable to or aggravated by service? (give reasons) –Yes, the death of the indl is attributable to mil service as while the indl participating Regt game period, feeling sudden chest pain and admitted in ICU, 174 MH (Bathinda), he was declared dead. Cause of death is natural.”*

12. Further, respondents while filing counter affidavit (para 9) have also stated that on '05.07.2021 at about 1925 hrs the deceased soldier was brought to 174 Military Hospital with history of chest pain of 10-15 minute duration, Lt Retrosternal in location with radiation to right side of jaw, associated with sweating and anxiety. Thereafter, his condition was deteriorated and inspite of best resuscitation efforts he was declared dead at 2145 hrs on 05.07.2021.'

13. No 14 days charter of duty having been filed, and the death having been granted attributability by the Commanding Officer, there is no ground to deny the benefit of attributability or aggravation of the disease (resulting death of service personnel). Additionally, there is nothing on record to show that at the time of entry into service, the husband of the applicant was suffering from this disease. Therefore, in view of the judgment of the Hon'ble Apex Court in ***Dharamvir Singh vs Union of India & Ors***, (2013) 7 SCC 316, the said fatal disease can be said to be aggravated by military service. Para 32 of the aforesaid judgment, being relevant, is reproduced as under:-

*"32. In spite of the aforesaid provisions, the pension sanctioning authority failed to notice that the medical board had not given any reason in support of its opinion, particularly when there is no note of such disease or disability available in the service record of the appellant at the time of acceptance for military service. Without going through the aforesaid facts the pension sanctioning authority mechanically passed the impugned order of rejection based on the report of the medical board. As per Rules 5 and 9 of 'Entitlement Rules for Casualty Pensionary Awards, 1982,' the appellant is entitled for presumption and benefit of presumption in his favour. In absence of any evidence on record to show that the appellant was suffering from 'generalised seizure (Epilepsy)' at the time of acceptance of his service, it will be presumed that the appellant was in sound physical and mental condition at the time of entering the service and deterioration in his health has taken place due to service."*



14. Thus, in sum and substance, we are of the view that the applicant's husband while on duty having completed over 18 years of military service, developed sudden chest pain on 05.07.2021 at about 1925 hrs soon after executing the duty assigned to him and died at 2145 hrs due to "ACS (Acute Coronary Syndrome), STE (ST Elevated) and AWWMI (Anterior Wall Myocardial Infarction)'. In the circumstances, his death is regarded as attributable to or aggravated by military service. In this context we set aside the rejection order dated 22.12.2022 (Annexure A-1 to O.A.). Since death in respect of the applicant's husband is regarded as attributable to military service, the applicant is entitled for grant of special family pension w.e.f. 06.07.2021. In the instant case applicant is in receipt of ordinary family pension but keeping in view that her husband died while on duty she is entitled to special family pension.

15. In view of the above, the O.A. is **partly allowed**. The respondents are directed to grant special family pension to the applicant w.e.f. 06.07.2021. Since the applicant is already getting ordinary family pension, difference of arrears may be worked out and paid to the applicant. Let the entire amount be paid to the applicant within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 9% p.a.

16. No order as to cost.

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

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

Dated: 27.03.2025  
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**(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. 1052 of 2023

Ranjana Pandey

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India &amp; Ors

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p data-bbox="451 1723 589 1755"><u>27.03.2025</u></p> <p data-bbox="451 1755 971 1787"><u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u></p> <p data-bbox="451 1787 971 1819"><u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <ol data-bbox="451 1884 1421 2037" style="list-style-type: none"> <li data-bbox="451 1884 849 1916">1. Judgment pronounced.</li> <li data-bbox="451 1943 1060 1975">2. O.A. No. <b>1052</b> of <b>2023</b> is partly allowed.</li> <li data-bbox="451 2002 1421 2034">3. For orders, see our judgment and order passed on separate sheets.</li> </ol> <p data-bbox="451 2179 740 2247">(Maj Gen Sanjay Singh) Member (A)</p> <p data-bbox="451 2247 513 2265"><i>rathore</i></p> <p data-bbox="870 2179 1105 2247">(Justice Anil Kumar) Member (J)</p>