

RESERVED

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(CIRCUIT BENCH, NAINITAL)**

O.A. No. 1137 of 2023

Thursday, this the 06th day of March, 2025

Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Vice Admiral Atul Kumar Jain, Member (A)

Smt Bhuwleshwari Devi W/o late JC-191951X Ex Nb Sub Lachhi Chand, R/o Nagla, P.O.-Nanakmatta, Tehsil-Sitarganj, District-Udham Singh Nagar, Uttarakhand.

..... Applicant

Ld. Counsel for the: **Shri Kishore Rai**, Advocate
Applicant

Versus

1. Union of India, Ministry of Defence, through its Secretary, South Block, New Delhi-11000.
2. P.C.D.A. (P), Allahabad, Uttar Pradesh.
3. Chief of Army Staff, Army Headquarters, New Delhi-110011.
4. Senior Record Officer, Sena Seva Corps Abhilekh (Pashu Parivahan), ASC Records (AT), Pin-900493.

..... Respondents

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

ORDER

1. The instant Original Application under Section 14 of the Armed Forces Tribunal Act, 2007 has been filed by the applicant with the following prayers :-

“(i) A direction to quash the order dated 24.08.2021 passed by respondent No 2 (contained as Annexure No 5 to this original application) or to

(ii) A direction to grant the family pension to the applicant from the date of death of her husband i.e. 04.10.2020.

(iii) To summon the entire records of the applicant pertaining to computation of family pension.

(iv) Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant”.

2. Brief facts of the case are that JC-191951X Nb Sub Lachhi Chand was enrolled in the Army on 07.09.1968 and he was invalided out from service w.e.f. 30.09.1992 (AN) under Rule 13 (3) III (v) of the Army Rules, 1954 due to disability ‘Low Backache (old) (Y-67)’. Consequent upon his invalidment, he was granted service pension and disability element of pension w.e.f. 01.10.1992 which was revised from time to time. He died on 04.10.2020. During the course of his service, he married Smt Bizmati Devi (first wife) on 19.05.1969 who later died on 16.05.2018. The deceased soldier re-married the applicant on 15.06.1996 during subsistence of first marriage. After death of his first wife, the deceased soldier approached District Soldier Board, Rudrapur, District-Udham Singh Nagar submitting petition dated 18.02.2019 regarding endorsement of name of his second wife i.e. the applicant. Thereafter, when the pensioner died, the applicant vide her personal application dated 11.02.2021 approached Records ASC (AT) for endorsement of her name in Army records to which Records ASC (AT) vide letter dated

24.08.2021 declined processing of family pension claim on the ground that the deceased soldier had contracted plural marriage. This O.A. has been filed for quashing letter dated 24.08.2021 and grant of family pension to the applicant w.e.f. 04.10.2020.

3. Learned counsel for the applicant submitted that husband of the applicant was enrolled in the Army on 08.09.1968 and he was discharged from service on 01.10.1992. He further submitted that husband of the applicant initially got married to Smt Bijmati Devi whose son named Bhim Chand expired on 23.05.1995 and thereafter he married the applicant on 15.06.1996. It was further submitted that after death of his first wife the deceased soldier approached through Zila Sainik Board vide his petition dated 18.02.2019 for endorsement of applicant's name in his service records but this being denied, this O.A. has been filed for grant of family pension to the applicant.

4. Learned counsel for the applicant further submitted that family pension claim in respect of the applicant has been rejected by the respondents in a very cavalier manner. It was further submitted that though the requisite documents pertaining to grant of family pension were called for and supplied by the applicant to respondent No 4 personally, yet the claim was not processed. He pleaded for grant of family pension to the applicant being the legally wedded wife of the deceased soldier.

5. On the other hand, learned counsel for the respondents submitted that Smt Bhuwleshwari Devi alleged second wife of JC-191951X Nb Sub Lachhi Chand has filed this O.A. for grant of family

pension in respect of her late husband Nb Sub Lachhi Chand who was drawing pension w.e.f. 01.10.1992. It was further submitted that after death of the pensioner, on petition dated 11.02.2021 submitted by the applicant, District Soldier Board, Udham Singh Nagar approached Records ASC (AT) who vide letter dated 10.03.2021 intimated that she is not entitled to family pension as the deceased soldier had contracted plural marriage.

6. Learned counsel for the respondents further submitted that the pensioner had married Smt Bizmati Devi on 19.05.1969 and during subsistence of first marriage the pensioner re-married the applicant on 15.06.1996 which being prohibited under Section 5 (i) of Hindu Marriage Act, 1955, applicant is not entitled to family pension. He pleaded for dismissal of O.A.

7. Heard Shri Kishore Rai, learned counsel for the applicant who is present in Court and Shri Rajesh Sharma, learned counsel for the respondents who is present through virtual mode and perused the record.

8. A short controversy involved in this case is whether family pension is admissible to second wife of a deceased pensioner who had contracted plural marriage?

9. It is not disputed that JC-191951X late Nb Sub Lachhi Chand was enrolled in the Army on 07.09.1968 and was invalided out from service w.e.f. 30.09.1992 (AN). Consequent upon his invalidment, he was granted pension w.e.f. 01.10.1992. During the course of his service, he married Smt Bizmati Devi on 19.05.1969. He also

married the applicant Smt Bhuvneshwari Devi on 15.06.1996 during life time of Smt Bizmati Devi, who expired on 16.05.2018.

10. In the year 2019, after death of Smt Bizmati Devi, the deceased soldier approached District Soldier Board, Rudrapur, District-Udham Singh Nagar with a request to endorse name of his second wife in his service record. In the said communication dated 18.02.2019, he himself had admitted that he contracted second marriage on 15.06.1996 during lifetime of his first wife who died on 16.05.2018. For convenience sake, extract of his application (Annexure No 2 of O.A.) is reproduced as under:-

“सेवा में,

श्रीमान सोल्जर बोर्ड उच्च विभाग अधिकारी महोदय,
रुद्रपुर जिला उधमसिंहनगर

विषय : आर्मी पेंशन को दूसरे के नाम पर ट्रांसफर करवाने वावत प्रार्थना पत्र महोदय,

सविनय निवेदन इस प्रकार है कि प्रार्थी सूबेदार लच्छी चन्द पुत्र स्व. श्री नारायण चन्द निवासी ग्राम नगला उप तहसील नानकमत्ता जिला उधमसिंहनगर का स्थाई निवासी हूँ। यह कि प्रार्थी आर्मी रिटायर व्यक्ति है। जिसका आर्मी न० JC191951X है। जो कि प्रार्थी पत्नी बीजमती देवी का पुत्र भीमचन्द पुत्र श्री लच्छी चन्द दिनांक 23.05.1995 मृत्यु हो चुकी है। अपने पुत्र की मृत्यु के बाद प्रार्थी ने दूसरी शादी दिनांक 15.06.1996 को कर लिया था। प्रार्थी ने अपनी आर्मी के पेंशन के लिए पत्नी का नाम दर्ज करने किया तो उन्होंने दो पत्नियों के रखने पर पत्नी का नाम दर्ज करने से मना कर दिया था। और कहा कि एक ही पत्नी होने पर नाम दर्ज किया जाएगा। अब प्रार्थी के पहली पत्नी बीजमती देवी की मृत्यु दिनांक 16.05.2018 को हो चुकी है। अब प्रार्थी के पास वर्तमान में एक ही पत्नी है। जिसका नाम श्रीमती भुवनेश्वरी देवी है। और प्रार्थी के देख-भाल प्रार्थी की पत्नी श्रीमती भुवनेश्वरी देवी कर रही है। इसलिए प्रार्थी अपनी पत्नी भुवनेश्वरी देवी का नाम आर्मी पेंशन में दर्ज कराना चाहता है।

अतः महोदय जी निवेदन है कि प्रार्थी की पत्नी का नाम श्रीमती भुवनेश्वरी देवी का नाम आर्मी पेंशन के लिए नाम दर्ज करने के कृपा करें। आपकी महान कृपा होगी।

आज दिनांक-18.02.2019

sd/- x x x x x x x x

लच्छी चन्द पुत्र स्व. श्री नाएरायण चन्द
निवासी ग्राम – नगला
उप तहसील नानकमत्ता
जिला उधमसिंहनगर”

11. In the year 2021, the applicant approached Records ASC (AT) vide letter dated 11.02.2021 (Annexure No-4 of O.A.) requesting the authorities concerned for endorsement of her name in service

documents of the deceased soldier. In response to her request, vide communication dated 24.08.2021, Records ASC (AT) declined to concede her request on the ground of plural marriage. For convenience sake, extract of letter dated 24.08.2021 is reproduced as under:-

- “1. Xxxxxxx.
2. It is observed on scrutiny of service documents in respect of No JC191951X late Nb Sub Lachhi Chand that the individual had married to Smt Bizmati Devi on 19 May 1969 and as per her death certificate, she died on 16 May 2018 whereas it has been noticed on your petition dated 11 Feb 2021 (copy attached) that you had married with above named individual on 15 Jun 1996 which is considered as plural marriage as per Hindu Marriage Act 1956.
3. Hence, this office is unable to process family pension in your favour. For your information please.”

12. Thus, from the aforesaid it is apparent that the deceased pensioner had contracted plural marriage in contravention to the Regulation 333 (C) of the Regulations for the Army, 1987 and he having conceded plural marriage in his communication dated 18.02.2019, no pensionary benefits can be given to the applicant.

13. In view of the above, we find no merit in the present O.A. and the same is accordingly **dismissed**.

14. No order as to costs.

15. Pending miscellaneous applications, if any, are disposed off.

(Vice Admiral Atul Kumar Jain)
Member (A)

Dated: 06.03.2025
rathore

(Justice Anil Kumar)
Member (J)

RESERVED

Form No. 4

{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

(CIRCUIT BENCH, NAINITAL)

O.A. No. 1137 of 2023

Smt Bhwneshwari Devi

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Ors

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p data-bbox="521 1607 662 1642"><u>06.03.2025</u></p> <p data-bbox="521 1642 1040 1677"><u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u></p> <p data-bbox="521 1677 1125 1712"><u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <ol data-bbox="521 1768 1490 1924" style="list-style-type: none"> <li data-bbox="521 1768 922 1803">1. Judgment pronounced. <li data-bbox="521 1830 1076 1865">2. O.A. No. 1137 of 2023 is dismissed. <li data-bbox="521 1892 1490 1927">3. For orders, see our judgment and order passed on separate sheets. <p data-bbox="521 2072 898 2139">(Vice Admiral Atul Kumar Jain) Member (A)</p> <p data-bbox="954 2072 1190 2139">(Justice Anil Kumar) Member (J)</p> <p data-bbox="521 2139 586 2158"><i>rathore</i></p>