

**E. Court**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW  
CIRCUIT BENCH AT NAINITAL  
(THROUGH VIDEO CONFERENCING)**

**ORIGINAL APPLICATION No. 286 of 2024**

Monday, this the 03<sup>rd</sup> day of March, 2025

**“Hon’ble Mr. Justice Anil Kumar, Member (J)  
Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”**

Smt. Leela Devi W/o LS-3174348 L/Nk. Dinesh Chandra, Village Lamara, Post Office – Kanalichhina, District – Pithoragarh.

**..... Applicant**

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

Versus

1. Union of India, through Secretary, Ministry of Defence, Govt. of India, South Block, New Delhi.
2. The Chief of the Army Staff, Integrated HQ of Ministry of Defence (Army), DHQ PO, South Block, New Delhi-110011.
3. Ministry of Defence (Pension Grievance Cell), 227 – “A Wing”, Sena Bhawan, New Delhi-110011.
4. JAT Regiments Abhilekh Karyalaya, Records The JAT Regiment, PIN-900496, C/o 56 APO.

**.....Respondents**

Ld. Counsel for the : **Shri Neeraj Upereti**, Advocate  
Respondents. Central Govt. Standing Counsel

## **ORDER**

**“Per Hon’ble Mr. Justice Anil Kumar, Member (J)”**

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

- I. *an order or direction to the respondents no 4 to grant disability pension to the husband of the applicant w.e.f. 18.03.1992 till the life of the husband of applicant i.e. 11.10.2011 along with arrears, further seeking direction for quashing the order impugned (letter No. 3174348/DP/RA/JR dated 31 Jan 2010 as well as letter No. 3174348/DP/JR dated 22 Sep 2009 and letter No. 3174348/DP/JR dated 14 Jun 2006) passed by the respondent authorities annexed as annexure No. A-1, A-2 and A-3 to this Original Application and direct the respondents to grant invalid family pension to the applicant from the date of discharge of SL-3174348 Dinesh Chandra (deceased).*
- II. *an order directing the respondents authorities to call for the entire original records of Discharge Summary and Release Medical Board proceedings held at the time of discharge of SL-3174348 Dinesh Chandra.*
- III. *an order or direction allowing the application with cost.*
- IV. *any other order or further order or direction which this Hon’ble Tribunal may deem just, fit and proper in the circumstances of the case in favour of the applicant.*

2. Briefly stated, husband of the applicant was enrolled in the Indian Army on 23.08.1990 and discharged on 18.03.1992, before

completion of terms of engagement at his own request on extreme compassionate ground under Rule 13 (3) Item III (iv) of the Army Rules, 1954. According to the applicant while discharging duty in various sectors the applicant's husband remained in hard pressure and suffered from mental illness and got treatment in Military Hospital and due to continuous mental illness the applicant's husband was discharged from service on 18.03.1992. After discharged from service the applicant's husband was admitted in Mental Hospital, Bareilly for several times. The applicant's husband's claim for the grant of disability pension was rejected vide letter dated 14.01.2006. The applicant's husband preferred Petition dated 25.07.2009 which too was rejected vide letters dated 22.09.2009 and 31.01.2010. Due to prolonged mental and physical illness the applicant's husband was died on 20.11.2010. The applicant herself approached to respondents through District Soldier Board, Pithoragarh for pensionary benefits of her husband whereby she was informed that her husband was discharged from service in medical category 'AYE' under Rule 13(3) item III (IV) of the Army Rules, 1954 and he did not complete minimum pensionable service, therefore, he is not entitled for service pension and disability pension. According to the applicant, earlier she had preferred Original Application No. 31 of 2015 before this Tribunal for the grant of family pension which was dismissed vide order dated 15.05.2017 with liberty to the applicant to approach the appropriate forum for grant of disability pension for survival period

of husband of the applicant. The applicant's husband's claim (application dated 29.07.2017) for the grant of Invalid Pension as well as Disability Pension was rejected vide letter dated 22.08.2017. The applicant again preferred application which was rejected vide letters dated 27.10.2017 and 24.11.2017. The applicant preferred petition dated 09.10.2017 and 08.12.2017 through CPGRAMS which too were rejected vide letters dated 06.12.2017 and 15.12.2017. The applicant preferred application dated 16.08.2019 but of no avail. The applicant preferred Mercy Petition which too was rejected vide letter dated 10.06.2021. The applicant again preferred petition which too was rejected vide letter dated 16.04.2024. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded that at the time of enrolment, the husband of the applicant was found mentally and physically fit for service in the Army and there was no note in the service documents that he was suffering from any disease at the time of enrolment in Army. The disease of the applicant's husband was contracted during the service, hence it is attributable to and aggravated by Military Service. Ld. Counsel for the applicant further submitted that due to continuous mental illness the applicant's husband was discharged from service on 18.03.1992. After discharged from service the applicant's husband was admitted in Mental Hospital, Bareilly for several times and due to

prolonged mental and physical illness the applicant's husband was died on 20.11.2010. He pleaded that various Benches of Armed Forces Tribunal have granted disability pension in similar cases, as such the husband of the applicant be granted disability pension with effect from 18.03.1992 till the life of the applicant's husband.

4. On the other hand, Ld. Counsel for the respondents contended that the husband of the applicant was discharged in medical category 'SHAPE-1' at his own request on compassionate ground before completion of terms of engagement. The applicant's husband was not in receipt of any type of pension. After a prolong gap of approx 18 years from the date of discharge of husband of the applicant and five years from the date of death, the applicant has filed Original Application No. 31 of 2025 for the grant of family pension before this Tribunal which was dismissed vide order dated 15.05.2017 stating that ***"applicant does not seem to be entitled for family pension. The learned counsel for the applicant submits that if not for pension, husband of the applicant was entitled for at least disability pension. It is open to the applicant to approach appropriate forum for grant of disability pension for the survival period of the husband of the applicant, if so advised but so far as the present case is concerned, it lacks merit and is hereby dismissed."*** He further contended that after completion of Basic Training the applicant's husband was posted to 7<sup>th</sup> Battalion The JAT Regiment. During the

service, husband of the applicant was downgraded to low medical category CEE (Temp) for six months with effect from 31.03.1990 for the disability '**ADJUSTMENTS REACTION 308**'. On subsequent review, he was upgraded to Medical Category 'AYE' on 04.06.1991. Further, husband of the applicant preferred an application dated 19.11.1991 for discharge at own request on compassionate ground. Accordingly, husband of the applicant was discharged from service on 18.03.1992 before completion of terms of tenure/service limit at his own request. Since the applicant's husband was discharged in medical category '**SHAPE-1**' as such he was not entitled for the grant of any type of pension including service pension as well as disability pension. He pleaded for dismissal of the Original Application.

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents and have also gone through the records.

6. It is undisputed that husband of the applicant was enrolled in the Indian Army on 23.08.1980 and discharged from service on 18.03.1992. It is submitted by the Ld. Counsel for the applicant that applicant's husband was discharged from service in low medical category. In reply, the Ld. Counsel for the respondents submitted that applicant was discharged from service at his own request in medical category "SHAPE-1".

7. From perusal of records, we find that in the Discharge Certificate, enclosed as Annexure A-4, page 30 of the Original Application, in “Cause of discharge” it has been mentioned that **“Discharged locally from service under Army Rule 13(3) III (iv) of Army Rules, 1954”**. Rule 13(3) III (iv) of the Army Rules, 1954 stipulates that **“At his own request before fulfilling the conditions of his enrolment”**. It proves that the applicant’s husband was discharged from service at his own request before fulfilling the conditions of his enrolment. Further, although Ld. Counsel for the applicant submitted that at the time of discharge from service the applicant was in low medical category, however, no medical document has been filed in support of his submission. Contrarily, in support of their submissions, the respondents have filed copies of letters dated 22.08.2017, 06.12.2017 and 10.06.2021 (Exhibits P3, P6 and P15 respectively of the Counter Affidavit) wherein it is mentioned that the applicant’s husband was discharged from service in medical category **“SHAPE-1”**. We also find that in the letter dated 14.06.2006, annexed at annexure A-3 of the Original Application it has been mentioned that the applicant’s husband was not discharged from service on medical grounds. Further, in the letter dated 22.09.2009, annexed at Annexure A-2 of the Original Application it has been mentioned that the applicant’s husband **“No.3174348 Ex Sep Dinesh Chandra was enrolled in the Army on 23 Aug 1980 and discharged from service wef 18 Mar**

*1992 in medical category 'AYE' under Army Rule 13(3)III (iv) at his own request."*

8. In the circumstances when applicant has not filed any medical document supporting his contention that her husband was discharged in low medical category and contrarily the respondents have submitted documents showing that the applicant's husband was discharged in medical category "SHAPE-1", we are of the opinion that the applicant's claim for the grant of disability pension to the husband of the applicant with effect from 18.03.1992 till the life of the her husband along with arrears is not maintainable.

9. In the result, we hold that the claim of disability pension of applicant's husband has rightly been rejected by the respondents which needs no interference. Resultantly, Original Application is **dismissed**.

10. No order as to cost.

(Vice Admiral Atul Kumar Jain)  
Member (A)

(Justice Anil Kumar)  
Member (J)

Dated : 03 March, 2025

AKD/-