

**Court No. 1**

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

**Original Application No. 74 of 2020**

Thursday, this the 19<sup>th</sup> day of May, 2022

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Smt. Dwarpadi Devi  
W/o Lte No. 3155030P, Ex Sep Rajvir Singh  
S/o Ram Singh  
R/o Village & Post – Visara, Tehsil – Gavahana, PS and Tehsil :  
Khair, District Aligarh (UP)

.... **Applicant**

Ld. Counsel for the Applicant : **Shri Om Prakash Kushwaha &  
Shri KP Datta, Advocate  
(Not Present)**

Versus

1. Union of India through the Secretary, Ministry of Defence (Army), New Delhi – 110011.
2. The Chief of Army Staff, IHQ of MoD (Army), Sena Bhawan, New Delhi – 110011.
3. Officer-in-charge Records, JAT Regiment Records, Bareilly Cantt, PIN – 900496, C/o 56 APO.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (Prayagraj).

... **Respondents**

Ld. Counsel for the Respondents : **Shri Anurag Mishra,  
Central Govt Counsel**

**ORDER (Oral)**

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

- “A. To issue/pass an order or directions to the respondents to decide the applicant’s representation dated 13.02.2019 for grant of service pension and other consequential benefits.
- B. To issue/pass an order or directions to the respondents to grant AFPP Fund, AGI benefits, Ex-gratia (though he participated in War 1971) and ex-serviceman facility to the applicant.
- C. To issue/pass an order or directions to the respondents not to discharge/invalidated out the applicant from service before his fresh medical examination.
- D. 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.”

2. The present O.A. was filed by Sep Rajvir Singh who died on 19.12.2020 during pendency of Original Application and, after his death, his wife Smt. Dwrpadi Devi has been substituted in his place by Tribunal’s order dated 22.07.2021.

3. Brief facts of the case are that husband of the applicant was enrolled in the Army on 29.09.1965 and was discharged from service w.e.f. 20.07.1972 after rendering 06 years, 09 months and 21 days of service on compassionate grounds on his own request under Rule 13 (3) III (iv) of Army Rules, 1954. He was not granted service pension, however, he was paid service gratuity, Death-cum-retirement Gratuity, AFPP Fund and credit balance of Final Settlement of Account. Service documents of husband of the applicant have been destroyed after expiry of mandatory retention period in terms of Para

595 of Regulations for the Army, 1987. The applicant has filed the present Original Application for grant of service pension.

4. Learned counsel for the applicant submitted that husband of the applicant was enrolled in the Army on 29.09.1965 and was discharged from service w.e.f. 20.07.1972 after rendering 06 years, 09 months and 21 days of service. The husband of the applicant fought India-Pakistan War in 1971 and Bangladesh War also but the husband of the applicant has neither been granted service pension nor issued Identity Card, Discharge Book, ECHS Card, Canteen Card etc. which is arbitrary and unjust on the part of respondents.

5. Learned counsel for the applicant further submitted that husband of the applicant went to the office of respondent No. 3 on 07.11.2017, then only he came to know that his all service documents have been destroyed. The husband of the applicant sent a representation dated 13.03.2019 for grant of service pension which is still pending with the respondents. He pleaded for grant of service pension to husband of the applicant alongwith other consequential benefits from the date of discharge from service.

6. On the other hand, learned counsel for the respondents submitted that service documents of husband of the applicant have been destroyed after expiry of mandatory retention period in terms of Para 595 of Regulations for the Army, 1987. As per entries in Regimental Long Roll, the applicant was enrolled in the Army on 29.09.1965 and was discharged from service w.e.f. 20.07.1972 after

rendering 06 years, 09 months and 21 days of service on compassionate grounds on his own request under Rule 13 (3) III (iv) of Army Rules, 1954. He was not granted service pension, however, he was paid service gratuity, Death-cum-retirement Gratuity, AFPP Fund and credit balance of FSA.

7. Learned counsel for the respondents further submitted that in accordance with Rule 132 of Pension Regulations for the Army, 1961 (Part-1), minimum period of qualifying service for earning service pension is 15 years and as per Rule 139 and 140 of Pension Regulations for the Army, 1961 (Part-1), minimum qualifying colour service for earning service gratuity is five years, accordingly, husband of the applicant was paid service gratuity as he has rendered 06 years, 09 months and 21 days of qualifying service. Therefore, in terms of Rule 132 of pension Regulations for the Army, 1961 (Part-1), husband of the applicant is not eligible for service pension for not serving minimum qualifying service of 15 years for earning service pension. He pleaded for dismissal of O.A. being devoid of merit.

8. Heard learned counsel for the respondents and perused the material on record.

9. We observe that husband of the applicant has rendered 06 years, 09 months and 21 days of qualifying service only for which he has been paid service gratuity as per rules. In terms of Rule 132 of Pension Regulations for the Army, 1961 (Part-1), minimum period of qualifying service for earning service pension is 15 years and

