

Reserved
Court No.2
Ser No. 24

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

Original Application No. 360 of 2022

Wednesday, this the 03rd day of May, 2023

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

Smt. Kamla Devi W/o No. 03146939 (Late) Reservist
Ram Nath R/o Vill-Kanvi, Post-Pilkhuwa, Tehsil Hapur,
District-Hapur, U.P. Pin-245304.

.....Applicant

Ld. Counsel for : **Shri Mahendra Singh**, Advocate
Applicant holding brief for Shri PK Shukla,
Advocate

Versus

1. The Union of India, through the Secretary, Ministry of Defence (Army) South Block, New Delhi 110011.
2. The Chief of the Army Staff, IHQ MOD (Army) South Block, New Delhi.
3. Adjutant General's Branch IHQ of MoD (Army) Room No.-11, Plot No. 108 (West) Brassey Avenue, Church Road, New Delhi-110001.
4. Officer-in-Charge, Records, The JAT Regiment, PIN 900496, C/o 56 APO.
5. PCDA (Pension), Draupadi Ghat, Allahabad.
6. The Branch Manager, Punjab National Bank, Hapur Garh Road, Hapur, U.P.
7. The Chief Manager, Central Pension Processing Cell (CPPC) PNB Halwasiya 1st Floor Hazratganj, BSR Code-0306377, Lucknow, U.P. Pin-226001.

.....Respondents

Ld. Counsel for the : **Dr. Gyan Singh**,
Respondents Central Govt Counsel

ORDER

1. Being aggrieved with denial of family pension applicant had filed Civil Misc. Writ Petition No. 12564 of 2020 in the Hon'ble High Court of Judicature at Allahabad which was dismissed as withdrawn vide order dated 20.01.2021 with directions to approach the appropriate forum. Thereafter, this Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 whereby the applicant has sought the following reliefs:-

(a) To issue/pass an order or directions to the respondents to release the family pension of applicant from the date of death of applicant's husband i.e. 19.04.2015 alongwith @12% interest on arrear pursuant to Family Pension PPO No. F/NA/0498/2016.

(b) To issue/pass an order or directions to the respondent to consider the applicant's representation dated 16.10.2021 for grant of Family Pension.

(c) 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.

(d) To allow this original application with costs.

2. Brief facts of the case are that applicant's husband No. 3146939M Sep (Reservist) (late) Ram Nath was enrolled in the Army on 03.11.1962. He was

transferred to pension establishment as reservist w.e.f. 01.12.1977. Accordingly, he was granted Reservist Pension for life vide PPO No. S/17453/78 dated 27.05.1978. The aforesaid PPO was jointly notified with Smt Hoshiyari who died on 15.04.2010. Thereafter, he got re-married with Smt Kamla Devi (applicant) on 16.03.2012. Part II Order regarding re-marriage with Smt Kamla Devi was published by Records, the JAT Regiment vide No. 1/0035/006/2012 and family pension was sanctioned vide PPO No. F/NA/0498/2016. After receipt of aforesaid PPO the pension disbursing authority i.e. Punjab National Bank, Garh Road, Hapur denied grant of family pension on the ground of mis-match in date of birth and alteration in date of marriage. Being aggrieved, the applicant has filed instant O.A. for grant of family pension.

3. Submission of learned counsel for the applicant is that during the course of his service applicant's husband got married to Smt Hoshiyari Devi according to Hindu Rites. It was further submitted that Smt Hoshiyari Devi died on 15.04.2010 and Part-II Order with regard to this effect was published vide No NE/0035/006/2012 dated 13.04.2012. After demise of first wife applicant's

husband got married to Smt Kamla Devi (applicant) on 16.03.2012 and the occurrence was notified vide Part-II Order No. NE/0071/003/2013 dated 07.04.2012. It was further submitted that ex (late) Reservist Ram Nath during his life time declared Smt Kamla Devi (applicant) as his next of kin (NOK) and her name was entered in service documents of her husband. Husband of the applicant died on 19.04.2015. After death of her husband, applicant was granted Family Pension vide PPO dated 03.08.2016. Upon receipt of PPO, applicant approached Punjab National Bank, Hapur Garh Road Hapur for credit of family pension in her bank account, but it was denied and a letter dated 31.01.2017 was issued seeking following clarifications:-

(a) Date of marriage as mentioned in Marriage Certificate was altered from 16.03.2016 to 16.03.2012.

(b) Difference/mismatch in date of birth of both parties.

4. Learned counsel for the applicant submitted that Marriage Registrar in their reply dated 14.02.2017 certified that the date of marriage i.e. 16.03.2012 has been certified based on the documents/voter card

submitted by both the parties at the time of registration of marriage. Thereafter, the instant case was transferred to Zila Sainik Board for verification. Zila Sainik Board submitted report dated 06.11.2017 stating that they were not aware of the said marriage certificate. However, as per letter dated 07.11.2017 issued from Office of Registrar Marriage to Zila Sainik Board it was stated that anomaly with regard to mismatch of date of birth of both the parties was corrected from 19.01.1960 (DOB of Late Ram Nath) to 03.11.1940 and 23.02.1965 (DOB of Kamla Devi) to 19.03.1944.

5. A Show Cause Notice dated 29.11.2017/22.12.2017 was issued by Records, the JAT Regiment to the applicant wherein it was alleged that "on the basis of verification report, it has come to light that a deliberate attempt has been made to dupe the system by recording wrong date of birth in various Govt documents to make you entitled for family pension and to hide the case of plural marriage contracted by the veteran", in which applicant was called upon to reply within 30 days from date of issue of notice, but applicant could not reply due to verification report

being not available. Based on Zila Sainik Welfare Office, Ghaziabad verification report dated 06.11.2017 with regard to marriage with Kamla Devi, Part II Order No NE/0035/006/2012 published by Records, JAT Regiment was cancelled vide Part II Order No 1/0551/2017 dated 31.12.2017, hence PPO No F/NA/0498/2016 was cancelled vide PPO No F/NA/CORR001032018 dated 16.08.2018. Thereafter, letter dated 07.11.2017 was issued from Office of Marriage Registrar to Zila Sainik Welfare Office, Ghaziabad in which it was stated that mismatch of date of birth of both parties have been corrected from 19.01.1960 (DOB of late Ram Nath) to 03.11.1940 and 23.02.1965 (DOB of Kamla Devi) to 19.03.1944. There is no document establishing that applicant's marriage falls within ambit of plural marriage and hence cannot be termed as void. Therefore, non grant of family pension on the ground of mismatch in date of birth, which was corrected later on, is arbitrary and bad in the eye of law. Hence, applicant is entitled for grant of family pension.

6. Learned counsel for the applicant pleaded that since name of the applicant has been recorded in

service documents of her husband therefore, she is eligible for grant of family pension after death of her husband and respondents be directed to release family pension to the applicant.

7. Per contra, learned counsel for the respondents submitted that husband of the applicant No. 3146939M Sep (Reservist) (late) Ram Nath was enrolled in the Army on 03.11.1962 whose date of birth is 03.11.1940. He was transferred to Reserve Pension Establishment w.e.f. 01.12.1977. Accordingly, he was granted Reservist Pension for life vide PPO No. 17453/78 dated 27.05.1978. PPO No. S/JN/11285/1996 was jointly notified with Smt Hoshiyari. After death of Smt Hoshiyari Devi on 15.04.2010 the pensioner was re-married to Smt Kamla Devi (applicant) on 16.03.2012. Part II Order regarding re-marriage with Smt Kamla Devi was published by Records, the JAT Regiment. Thereafter, PCDA (P) Allahabad granted Family Pension in favour of the applicant, but Pension Disbursing Authority i.e. bank did not credit family pension in applicant's bank account due to alteration of date of marriage from 16.03.2016 to 16.03.2012 leading to mismatch in date of birth in respect of late Ram Nath.

Learned counsel for the respondent further submitted that casualty with regard to demise (15.04.2010) of Hosiyari Devi was published vide No NE/0035/006/2012 dated 13.04.2012. After demise of first wife husband of the applicant married to Kamla Devi daughter of Shri Dhyan Singh at Shiv Ka Shivala Mandir, Nasratpura, Teh & Distt-Ghaziabad (UP) according to Hindu Rites on 16.03.2012 whose date of birth being 19.03.1944 and Part II Order No NE/0071/003/2013 dated 07.04.2012 was published by Records the JAT Regiment. Ex late (Reservist) Ram Nath while he was alive declared Smt Kamla as his next of kin and her name is endorsed in service documents of her husband. Husband of the applicant died on 19.04.2015. After death of her husband, applicant was granted Family Pension vide PPO No F/NA/0498/2016 dated 03.08.2016 with the direction to approach PDA. Applicant approached Punjab National Bank, Hapur Garh Road, Hapur for credit of family pension in her bank account, but it could not credited to his account on the ground that there was mismatch in date of birth and marriage. Prior to release of pension, Punjab National Bank, Garh Road, Hapur (PDA) approached the

office of the Registrar (Hindu Marriage), Ghaziabad (UP) on 21.12.2016 for verification of veracity of pensioner. In turn, Registrar (Hindu Marriage), Ghaziabad (UP) furnished the following details:-

Name	Occurrence	As per service record	As per documents produced for marriage registration
Late Ram Nath	Date of Birth Date of Marriage	03.11.1940 16.03.2016	19.01.1960 16.03.2012
Smt Kamla Devi	Date of Birth Date of Marriage	19.03.1944 16.03.2016	23.02.1965 16.03.2012

8. The Punjab National Bank, Garh Road, Hapur (PDA), observed the following discrepancies in the date of birth and marriage of the applicant:-

Name	Occurrence	Recorded in documents on the request of deceased reservist and applicant	As per documents produced for marriage registration
Late Ram Nath	Date of Birth	03.11.1940	19.01.1960
Smt Kamla Devi	Date of Birth Date of Marriage	19.03.1944 16.03.2016	23.02.1965 16.03.2012

9. Learned counsel for the respondents further submitted that a Show Cause Notice was issued to the applicant by registered Post on 29.11.2017 with an instruction to submit reply within 30 days from the date of issue, otherwise it would be presumed that applicant

has no objection for cancellation of marriage Part II Order and Pension Payment Order already issued in her favour. After consideration of waiting period and non receipt of any reply from the applicant, Records the JAT Regiment cancelled the re-marriage Part II Order on 31.12.2017 and processed further to PCDA (P) Allahabad for cancellation of PPO on 22.11.2017 and therefore, PPO issued earlier was cancelled on 16.08.2018. He pleaded for dismissal of O.A. submitting that that in view of the facts and legal position, applicant is not entitled for grant of family pension.

10. Heard learned counsel for the parties and perused the documents available on record.

11. In regard to aforesaid we find that there is document or any other evidence establishing that the marriage of the applicant with the deceased comes under the purview of plural marriage. The Ex late Reservist Ram Nath has himself declared the applicant in his life time as his Next of Kin and it has not been challenged by anyone. The mismatch in date of birth and marriage in respect of the applicant and her

deceased husband was later corrected by the concerned authorities.

12. On finding the applicant legal wife of the deceased soldier she was granted family pension after demise of her husband and PPO to this effect was also issued. The said PPO was cancelled on the ground that there was mismatch in date of birth and marriage in respect of applicant and her deceased husband which was corrected later vide report received from Zila Sainik Welfare Office, Ghaziabad and Registrar birth and marriage.

13. On the basis of above, we are of the considered view that applicant is entitled for family pension, hence the respondents are directed to publish necessary occurrence with regard to publication of Part-II Order in respect of the applicant for grant of family pension based on the report received from concerned agencies to make her eligible for grant of family pension and after publication of Part II order, grant Family Pension to the applicant. The aforesaid exercise shall be completed by the respondents within a period of four months from today.

14. In view of the above, the O.A. is **allowed**. The respondents are directed to grant family pension to the applicant within a period of four months from today. Default will invite interest @ 8% p.a.

15. No order as to costs.

16. Pending miscellaneous application(s), if any, stand disposed off.

(Maj Gen Sanjay Singh)
Member (A)

Dated :03.05.2023
rathore

(Justice Anil Kumar)
Member (J)