

**RESERVED**  
**Court No.1**

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

**Original Application No. 558 of 2017**

Friday, this the 16<sup>th</sup> day of November 2018

**Hon'ble Mr. Justice S.V.S. Rathore, Member (J)**  
**Hon'ble Air Marshal BBP Sinha, Member (A)**

Jitendra Singh S/O late Sri Jayveer Singh, S/O late Sri (No.513695 Sepoy Shiv Ratan Singh), resident of village-Kripampurwa, Post Office-Kathethi, District-Kanpur Dehat.

..... Applicant

Ld. Counsel for the: **Shri Sudhir Kumar Singh**, Advocate Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of Army Staff, Integrated Headquarters, Ministry of Defence, South Block-III, New Delhi-110011.
3. Senior Record Officer, Army Service Corps Abhilekh (Dakshin), ASC Records, (South), Bangalore PIN-560007.
4. Principal Controller of Defence Account (Pension), G-4, Section, (Pre-64), Draupadi Ghat, Allahabad-14.

..... Respondents

Ld. Counsel for the :**Shri Virendra Singh**  
Respondents Central Govt Counsel.

**ORDER****“Per Hon’ble Air Marshal BBP Sinha, Member (A)”**

1. This Original Application was 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 pass an order or direction for quashing of order dated 09.03.2017 passed by the OP No. 4 which is annexed as Annexure No. 1 to this application.*
- (b) *To pass an order or direction commanding the respondent for grant of life time arrear of the family pension of his grandmother Radha Devi along with the interest @ 12% per annum from the date death of his grandfather i.e. 19.02.1982 till the date of death of his grandmother i.e. 27.04.2013.*
- (c) *To pass an order which this Hon’ble Tribunal deems fit and just under the facts and circumstances of the case, in favour of the applicant.*
- (d) *Allow the Original Application with exemplary cost.*

2. Brief facts in nutshell are that grandfather (No 513695 Sepoy Shiv Ratan Singh, deceased soldier) of the applicant was enrolled in the Army on 26.04.1927 and discharged from service on 22.08.1944. The deceased soldier was in receipt of service pension vide PPO No PC/659/IV/1947 which continued till 18.02.1982 and ceased w.e.f. 19.02.1982 i.e. date of death. The instant O.A. has been filed after elapse of more than 30 years by grandson of the deceased soldier for grant of life time arrears of his deceased grandmother who expired on 27.04.2013.

3. Ld. Counsel for the applicant submitted that in the year 2012 applicant's grandmother approached Senior Record Officer, ASC Records (South), Bangalore for grant of family pension but she in turn was asked to provide certain documents which she could not complete due to cumbersome process and died on 27.04.2013 without getting family pension and its arrears. Subsequently the applicant submitted petition dated 10.02.2014 for grant of family pension but was rejected vide order dated 27.02.2014 on the ground of claimant/recipient NO MORE.

4. On the other hand, Ld. Counsel for the respondents submitted that after elapse of more than 30 years from the date of death of late Sep Shiv Rattan Singh, Smt Radha Devi stated to be wife of deceased soldier approached ASC Records (South) for grant of family pension. Since service dossier of the deceased soldier was destroyed in terms of para 595 of Regulations for the Army, 1987, only service details viz. Long Roll/Nominal Roll were available which was not enough to establish genuinity of the claimant. Ld. Counsel further submitted that as per para 92 of Pension Regulations for the Army, 1961 (Part-I) if the claim of a widow to a pension fails, through her negligence or omission, to be established before her death, the amount of pension to which she would have been entitled, if living, shall not be allowed to

her representative. Therefore PCDA (P), Allahabad has rightly rejected claim for grant of family pension which was processed after remaining silent for approx 30 years. He further submitted that as the claim documents have not been processed, and no family pension in favour of widow of the deceased soldier has been notified by PCDA (P) Allahabad, applicant stated to be grandson is not eligible for grant of life time arrears of his grandmother. The Ld. Counsel pleaded that the O.A. be dismissed.

5. Heard Ld. Counsel for the parties and perused the material placed on record.

6. We have given our anxious considerations to the pleadings and submissions of both the parties.

7. Ld. Counsel for the applicant could not deny that the widow of the deceased Army person was not granted family pension during her life time. Thus, the inevitable result is that the applicant who is the grandson of the deceased Army person cannot be held entitled to receive the amount of family pension which admittedly was not paid to the widow of the deceased soldier. It is really strange to note that even son of the deceased soldier never raised such a claim and it has been raised only by grandson after huge delay. Even otherwise the respondents have come up with the clear case that the

widow of the deceased soldier had approached the authorities concerned for grant of family pension after inordinate delay of more than 30 years from the date of death of her husband and by the said date the service dossier of the deceased soldier were destroyed in terms of para 595 of the Regulations for the Army, 1987. No doubt the Long Roll/Nominal Roll were available with the respondents but said documents could not have established the case of the widow of the deceased soldier for grant of family pension. The argument of the Ld. Counsel for the applicant is that representatives can be denied pension only when there was any negligence on the part of the person entitled for family pension. We do not find any substance in this submission because husband of the grandmother of the applicant died in the year 1982 and his wife for the first time, as pleaded, raised claim after thirty years in the year 2012. So this huge delay of thirty years is, by itself, sufficient to establish gross negligence on the part of the grandmother of the applicant.

8. In this view of the matter, we are of the considered opinion that the applicant who is grandson of the deceased soldier and who has approached this Tribunal in the year 2017 i.e. after 35 years of death of his grandfather (the deceased Army person) and after four

years of the death of his grandmother who was not in receipt of family pension of her late husband, is not entitled to any relief from this Tribunal.

9. In view of the above, the O.A. lacks merits and is accordingly **dismissed**.

No order as to costs.

**(Air Marshal BBP Sinha)**  
**Member (A)**

**(Justice SVS Rathore)**  
**Member (J)**

Dated : November, 2018  
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