

RESERVED
Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION 433 of 2017

Tuesday, this, the 9th day of October, 2018

Hon'ble Mr. Justice SVS Rathore, Member (J)

Hon'ble Air Marshal BBP Sinha, Member (A)

Smt Mithlesh Devi alias Lali Devi, widow of No. 2851761 Late Rfn Maharaj Singh,
resident of Village Kaila, Post Kaila, district Etah (UP) Pin Code 207247.

...Applicant

Counsel for the applicant:

Sri R. Chandra, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi – 11
2. Chief of the Army Staff, integrated Headquarters of Ministry of Defence (Army), DHQ Post Office, New Delhi-11.
3. The Officer-in-Charge, Records The Rajputana Rifles, PIN – 908106, C/O 56 APO.
4. The Chief Controller Defence Accounts. Draupadi Ghat, Allahabad, (UP).
5. The Zila Sainik Kalyan Evam Punarvas Karyalaya, Etah, District Etah (UP).
6. Branch Manager, State Bank of India, Aliganj Branch, District Etah (UP).

.... Respondents

Counsel for the Respondents :

Shri Ashish Saxena,
Addl Central Government Counsel

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

1. By means of the present O.A., the applicant, No. 2851761, widow of Late Ffn Maharaj Singh has approached this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 praying for the following reliefs:

- (I) *The Hon’ble Tribunal may be pleased to direct the respondents to grant family pension to the applicant with effect from 03.08.2012 (date of death of late Husband) along with its arrears with interest at the rate of 18 percent per annum.*
- (II) *Any other appropriate order or direction which the Hon’ble Tribunal may deem just and proper in the nature and circumstances of the case.*

2. The facts emerging from the record are that husband of the applicant (No. 2851761 Late Rfn Maharaj Singh) was enrolled in the Indian Army in Rajputana Rifles on 26.09.1962 and was discharged on completion of his terms of engagement on 30.09.1977 under Rule 13 (i) III ((i) of the Army Rules, 1954. He was granted service pension with effect from 01.10.1977 vide PPO dated 27.12.1977. The applicant was married to one Smt. Lali Devi prior to his enrolment in the Army. He had nominated his wife Smt Lali Devi as nominee for all service benefits in the event of his death in harness. However, at the time of retirement, the deceased soldier had given name of his wife as Smt. Mithlesh Devi. He was advised to complete formalities for change of his wife’s name in the service record. As luck would have been, said Ffn Maharaj Singh left for his heavenly abode on 02.08.2012 without completing formalities to change name of his wife in the service records, as such, name of his wife continued to be recorded in the service records as Smt. Lali Devi. The applicant after death of her husband raised her claim for payment of family pension. She claimed that she is known by both the names i.e. Lali Devi as well as Mithlesh Devi. However, because of difference of name, and also date of marriage, the Records Office advised the Recruiting Office, Etah to investigate the matter and submit a report. Based on the positive report of Recruiting Office, Etah, necessary action was initiated by the Records Office for issuing PPO to the widow of the

deceased soldier. However, since in the record, name of applicant was still mentioned as Lali Devi as widow of the late soldier, the PCDA (P), Allahabad issued PPO in the name of Smt Lali Devi. Failing in her endeavour to get her name changed in the service record and consequently in the PPO as Smt Mithlesh Devi alias Lali Devi, the applicant has approached this Court with the assertion that Smt. Mithlesh Devi and Smt. Lali Devi are one and the same person and for a direction to the respondents to issue a corrigendum PPO in the name of Smt. Mithlesh Devi alias Lali Devi, widow of Ffn Maharaj Singh.

3. Learned counsel for the applicant has submitted that the present case is not a case of plural marriage, but a case of same person having two names. The applicant was married to the deceased Army soldier even prior to his enrolment in the Army. He fervently argued that Smt. Mithlesh Devi alias Lali Devi (the applicant) and Lali Devi is the one and same person and Smt. Mithlesh Devi is also known by the nickname of Lali Devi. The deceased soldier not being much educated and not knowing the gravity of meticulously giving the actual name of his wife to be recorded in the Army records, had mentioned her (applicant's) name as Lali Devi for which the applicant cannot be made to suffer. Learned counsel submitted that the applicant is on the lower side of education and despite being legally wedded wife and her best efforts, she has failed to get corrected the official records and satisfy the Records Office that she is the only widow of the deceased soldier and is actually known and called by both the names and is entitled to get family pension after death of her husband. It was submitted that the applicant has been denied family pension since August 2012. Learned counsel for the applicant submitted that the Army Recruiting Office asked the applicant to complete certain formalities which were duly complied with, but the respondents sat over the matter and the elderly lady is suffering due to the indifferent and apathetic attitude of the Records Office.

4. Learned counsel for the respondents has argued that necessary papers were raised by the Records Office and forwarded to the PCDA(P), Allahabad for payment of pension to the applicant, but the PCDA (P) refused to issue PPO in her name for

the reason that in the records, name of the applicant is still mentioned as Smt Lali Devi. Learned counsel for the respondents candidly submitted that the Record Office is still in liaison with the applicant for changing her name in the records.

5. We have heard learned counsel for the parties and have perused the record including the original PAN Card, Voter ID Card, Photocopy of the Bank Account No. 32503864543 submitted by the applicant.

6. The only issue involved in this case is ‘whether the applicant Smt. Mithlesh Devi alias Lali Devi is the sole legitimate widow of Late Ffn Maharaj Singh?’ We are amazed with the sequence of events and feel anguished to note that the Records Office concerned has not taken up the matter for payment of family pension to an elderly widow of low paid Army personnel in right stride with urgency expected by Army Organization while dealing with matters for payment of family pension to the widows and family members of deceased Army personnel. We are constrained to note that the working of the Record Office is extremely beaurocratic and is not helpful at all for Jawans and widows who are at the lower end of education and society. We also noted that during hearing, the respondents have not set up a case of plural marriage by the deceased Army personnel or complaint from any quarter of plural marriage. It was also admitted by the learned counsel for the respondents that since date of death of the Army personnel, i.e. last six years and odd, no other lady except the present applicant has approached for family pension.

7. During course of arguments, learned counsel for the applicant produced original copies of Discharge book of the deceased Army personnel, Aadhar No. 3607 7627 0091, Voter ID Card bearing No. JYX204877, PAN No. CKDPD2420G, certified copy of Parivar Register issued by the Gram Panchayat Adhikari relating to Gram Panchayat Kaila, village Kaila, Tahsil Aliganj, Vikas Khand Aliganj, district Etah, Affidavits sworn by the applicant, Domicile Certificate issued by Deputy District Magistrate, Aliganj, district Etah and counter-signed by the Deputy District Magistrate, Etah (Ist Class Magistrate). We have carefully perused said documents

and are of the considered opinion that based on the evidence they cumulatively show that the applicant Smt. Mithlesh Devi alias Lali Devi and Smt. Lali Devi is one and the same person and is the widow of No. 2851761 Late Ffn Maharaj Singh, the deceased soldier. Hence, a legal duty is cast on the Records Office to change her name in the records as per laid down procedure and forward the amended record to the PCDA (P) Allahabad to issue corrigendum PPO in her name.

8. The O.A No 433 of 2017 is accordingly **allowed**. The Records Office is directed to amend the records in the name of applicant as wife in view of observations made in body of this order as per laid down procedure and forward the pension papers of the applicant to the PCDA (P) Allahabad. The PCDA (P) Allahabad shall issue corrigendum PPO in favour of the applicant with regard to payment of family pension. The respondents shall commence her family pension with arrears of pension within four months from today, failing which the applicant shall be entitled to interest at the rate of 9% from today till the date actual payment.

No order as to costs.

(Air Marshal BBP Sinha)
Member (A)

(Justice SVS Rathore)
Member (J)

Dated : October, 2018
anb