

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 705 of 2020

Monday this the 04th day of October'2021

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

Smt. Ganga Devi W/o Late Sher Singh, Ex-Hav No. 4134470-L, R/o Vill- Ayartoli, Po-Gangoli, Tehsil-Garur, Dist-Bageshwar (U.K.)

Presently residing at:- C/o Suresh Chandra Singh. House No-588/43K, Himalyan Colony, 1st Lane, Devi Khera, Po-Dilkusha, District-Lucknow-226002.

..... Applicant

Ld. Counsel for the: **Shri Parijaat Belaura, Advocate**
Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff, Army Headquarter Ministry of Defence, Government of India, South Block, New Delhi-110011.
3. The Chief Record Officer, Records the Kumaon Regiment, Ranikhet, Dist-Almora (U.K).
4. The Principal Controller of Defence Account (Pension) Draupadi Ghat, Allahabad (UP).

.....Respondents

Ld. Counsel for the Respondents. : **Shri R.K.S. Chauhan,**
Central Govt. Counsel

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, 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) To delete the name of Smt Bishna @ Smt Bishnali from the service records of Sher Singh Ex-Hav No-4134470-L.

(II) To entre the name of applicant in the service records of Sher Singh Ex Hav No-4134470-L and issue Part II Order.

(III) To grant family pension to the applicant w.e.f. next date of death of Husband of applicant i.e. 26.06.2018.

(IV) To pay arrears of Family Pension along with 12% interest from the Next date of death of applicants Husband i.e. 26.06.2018 till it is actually paid.

(V) Any other suitable relief this Hon’ble Court deems fit and proper may also be granted.

2. Brief facts of the case are that husband of the applicant was enrolled in the army on 28.05.1948 and discharged from service on 28.05.1969 after completion of about 21 years of service. Husband of the applicant was granted service pension for the service rendered in the army. After death of her husband, applicant approached respondents for grant of family pension which was denied to her. Being aggrieved, applicant has filed instant Original Application for grant of Family Pension.

3. Learned counsel for the applicant submitted that in the year 1950 husband of the applicant Late Ex Hav Sher Singh had married to Bishnali Devi, D/o Dileep Singh, R/o Vill- Talai Supe, PO- Supe Malta Danpaur, Tehsil- Kapkiot, Distt- Bageswar, State- Then UP Now UK but by clerical mistake her name was entered as Smt Bishna Devi and Part II Order to this effect was published. After discharge of Late Ex Hav Sher Singh, his wife started living with one Shri Balwant Singh as such applicant filed divorce suit before District Judge- Bageshwar. Smt Bisnali Devi gave her statement that she does not want to live with Sher Singh as such suit was allowed on 27.04.2005. On 05.01.2006, Late Ex Hav Sher Singh re-married to Smt Ganga Devi and got his marriage registered in the office of Registrar Bageshwar, Ultra Khand and a certificate 11.01.2017 to this effect was issued. On 05.07.2017, husband of the applicant contacted respondents for publication of Part II Order of Smt Ganga Devi as his wife, along with decree of divorce with Smt Bisnali Devi and affidavit to the effect that Smt Bisnali Devi and Smt Bisna Devi is name of one and same lady but the same was not

published. After death of her husband, applicant again approached respondents for entering her name in service record of her husband and for grant of family pension. Respondents have informed the applicant that name of wife recorded in service record of Late Ex Hav Sher Singh has been mentioned as Smt Bishna Devi whereas in divorce decree, it has been mentioned as Smt Bishnali Devi, hence divorce decree is void. Applicant give sufficient proof that Smt Bishna Devi and Smt Bishnali Devi is name of same lady and applicant is only legal heir of Late Ex Hav Shrt Singh but neither her name was entered in service record of her husband nor she was granted family pension. Learned counsel for the applicant prayed that directions be issued to respondents to enter her name in service record of her husband and family pension be granted to her.

4. On the other hand, submission of learned counsel for the respondents is that in service record of Late Ex Hav Sher Singh, name of wife is entered as Bishna Devi and in divorce decree, name of wife is mentioned as Bishnali Devi, hence decree of divorce is void. Accordingly, neither name of applicant was entered in service record of Late Ex Hav Sher Singh nor she was granted family pension. Learned counsel

for the respondents submitted that instant Original Applicant has no substance and is liable to be dismissed.

5. We have heard learned counsel for the parties and perused the material placed on record.

6. We also observed that, Ex Late Hav Sher Singh had forwarded all the required documents to prove that Smt Bisnali Devi and Smt Bisna Devi is the same lady and due to clerical mistake in service record of Late Ex Hav Shet Singh name was mentioned as Bisna Devi. Further Late Ex Hav Sher Singh married to Smt Ganga Devi after divorce from first wife. Respondent cannot deny her legal right only on the ground that there is some difference in name. Once applicant has produced various documents as asked, then respondents cannot deny for grant of family pension on the silly grounds. At least respondents after ascertaining the factual position should assist the applicant in granting family pension and means of livelihood. The public interest demands that administration must abide by the promises held out to citizens. It is totally wrong to go back from the promises held out by the mighty state to the detriment of a small people. Therefore, it is the function of the Courts to see that the citizen's rights should be protected against the mighty state and state should be forced to abide by

the promises made to its citizens. Respondents cannot be hard to say that name of the applicant is different in service documents of the deceased soldier, therefore, they are not under obligation to grant family pension. Accordingly, applicant is entitled for grant of family pension after the next date of death of his mother.

7. Thus, in the result, Original Application succeeds and is **allowed**. Applicant is directed to submit all requisite documents as asked by the respondents within one month. After receipt of the necessary documents, respondents shall grant Ordinary Family Pension to the applicant from the next date of death of her husband Late Ex Hav Sher Singh. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. In case the respondents fail to give effect to this order within the stipulated time, they will have to pay interest @ 8% on the amount accrued from due date till the date of actual payment.

8. No order as to cost.

9. Pending applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: 04 October, 2021

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