

Court No.1
RESERVED

ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW

Original Application No. 56 of 2014

Wednesday, this the 18th day of July, 2018

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

Sunil Singh son of late Smt. Shyama Devi widow of late Sepoy Durg Vijay Singh (1436476) resident of c/o Raj Kishore, Sector 11/315/23, Indira Nagar, Lucknow.

....**Applicant**

By Legal Practitioner : **Shri K.K. Misra**, Advocate

Versus

1. Union of India through its Secretary, Ministry of Defence, New Delhi.
2. Chief of the Army Staff, Army Headquarters, New Delhi.
3. The Bengal Engineer Group, Record, Roorkee – Pin 900477.
4. PCDA (P) Allahabad.
5. Manager, State Bank of India, Belthera Road, Ballia (U.P.)

... **Respondents**

By Legal Practitioner : **Shri Vireendra Singh**, Addl Govt Counsel.

ORDER

“Hon'ble Air Marshal BBP Sinha (Member A)”

1. Being aggrieved by non-payment of Family Pension with effect from 01.01.2012, the widow of the deceased erstwhile member of the

Indian Army i.e. (No. 1436476, Sepoy Durg Vijay Singh) had preferred the present O.A. During pendency of the O.A., original applicant Smt Shyama Devi, widow of No. 1436476, Sepoy Durg Vijay Singh died on 30.12.2015 and by order dated 24.07.2017 she has been substituted by her legal heir/son Sunil Singh (the present applicant).

2. By means of the instant O.A., the following reliefs have been claimed:-

- (i) *To pass an order, directing the respondents to make payment of full family pension w.e.f. 01 Jan 2012 to the applicant as entitled to her with interest on arrears.*
- (ii) *To issue directions to the respondents to continuously make payment of full family pension on month to month basis thereafter.*
- (iii) *Any other relief as considered proper by this Hon'ble Tribunal be awarded in favour of the applicant.*
- (iv) *Cost of the application be awarded to the applicant.*

3. Brief facts necessary for adjudication of the controversy involved in the present O.A. are that husband of the original applicant Smt. Shyama Devi, i.e. No. 1436476, Sepoy Durg Vijay Singh was enrolled in the Army in the Corps of Engineers in Bengal Engineer Group, Roorkee on 25.05.1965 and was discharged from service on 01.01.1978 after serving his full term of service. He was granted full pension of Sepoy with effect from 01.01.1978. He was drawing pension from Treasury office, Ballia which was credited in the joint Savings Bank Account No. 6690 of State Bank of India, Belthera Road Branch, Ballia, U.P. till he died on 10.10.2003. As per records maintained at Records, Bengal Engineer Group, Roorkee, Smt. Shyama Devi was married to the deceased Army personnel on 20.5.1966. It is admitted to the

respondents that she is the legally wedded wife of the deceased soldier. After retirement from Military Service, the deceased soldier was re-employed in Hindustan Aeronautics Limited, Lucknow Division as DSC personnel.

4. On 14.03.2012, Smt. Shyama Devi informed the department that her husband had expired on 10.10.2003. However, the State Bank of India, Branch Belthera Road Branch, Ballia, U.P. continued to pay family pension to Smt. Shyama Devi till 31.12.2011. On 13.02.2012 Smt. Shyama Devi received a letter from the concerned Bank that her pension has been stopped with effect from 01.01.2012 by the Pension Disbursing Authority. The Bank later informed that since there was no 'joint notification' of wife in the Pension Payment Order (PPO) of her deceased husband, payment of family pension to her has been stopped. Vide letter dated 26.03.2012 (Annexure A-2 to the O.A.) of the Record Officer, Smt. Shyama Devi was asked to obtain 'no pension certificate' from Hindustan Aeronautics Limited and as also fill her claim for joint notification and send it to the PCDA (P), Allahabad for necessary action. In compliance thereof, Smt. Shyama Devi submitted the required documents vide letter dated 11.09.2012 of the Zila Sainik Kalyan Evam Punarvas, Lucknow, which as per averments of the respondents in the counter affidavit were forwarded to the PCDA (P), Allahabad. The PCDA (P) Allahabad returned the claim of Smt. Shyama Devi with certain observations which were communicated to the applicant vide Bengal Engineer Group Records, Roorkee letter dated 01.12.2012. The requisite documents were again submitted after rectification by the

widow through the Zila Sainik Kalyan Evam Punarvas, Lucknow vide letter dated 03.03.2013. However, there was no response from the Record Office. Thereafter the PCDA (P), Allahabad vide letter dated 29.05.2013 raised the following objections:

(I) Delay explanation given by the claimant is not satisfactory. It is once again advised to furnish date wise delay explanation duly justified by your office along with the claim, otherwise family pension will be sanctioned from the date of application.

(II) As per delay explanation given by claimant that widow is in receipt of family pension till 31.12.2011, whereas in LTA certificate enclosed with the claim concerned PDA has certified that pension was paid to the deceased upto 5.11.2003 and overpaid amount is NIL. As the statement of widow and concerned PDA is contrary it requires reconciliation.

A certificate to the effect that the overpaid amount has been recovered should be furnished by PDA or an undertaking from the claimant to the effect that the overpaid amount will be recovered/adjusted against her family pension, may please be furnished along with the claim.

(III) Copy of PPO under which service pension has been sanctioned to the petitioner from civil side be enclosed with the claim.

(IV) The claimant is residing at Indira Nagar Lucknow whereas Non-marriage certificate and other documents have been issued by Gram Panchayat Sikanderpur Ballia. It is not understood. The same should be issued by the local civil authorities of the residence.

5. The above mentioned observations were communicated to the petitioner vide Bengal Engineer Group Records, Roorkee FM-9475/R/FP/15/Pen dated 29 Jun 2013 and she was advised to submit all the requisite documents for grant of family pension.

6. The learned counsel for the applicant accused the respondents that the matter for payment of family pension to Smt. Shyama Devi was

shelved by the respondents and no action has been taken by the joint inaction of the Records Office and PCDA (P), Allahabad despite the fact that Smt. Shyama Devi was the legally wedded wife and entitled to family pension and on 21.02.2012 had personally approached concerned authority of the PCDA (P), Allahabad and subsequently the BEG Records, Roorkee. The learned counsel further submitted that the uneducated and illiterate widow of the soldier, who was at the lowest rung in the hierarchy of the Army, died on 30.12.2015 without receiving her entitled family pension from 01.01.2013 due to inaction and apathy of the concerned officials who on one pretext or the other kept the matter lingering though it was clear to them that Smt. Shyama Devi was the legally wedded wife and widow of No. 1436476, Sepoy Durg Vijay Singh and was entitled to family pension.

7. The learned respondents' counsel on the other hand submitted that non-submission of required papers and reply to PCDA (P), Allahabad was the reason for non release of family pension.

8. We have given our anxious thoughts to the whole situation. At the outset, we are distressed by the whole situation whereby an illiterate widow of a deceased soldier has been caught up in the bureaucracy of Record Office and PCDA (P), Allahabad. If we look at the sequence of events, the following emerge:-

- (a) That when the deceased soldier was discharged from Army on 01.01.1978, there was no provision for joint notification of legally wedded wife's name in the Pension Payment

Order (PPO). This welfare provision was introduced in mid eighties.

- (b) In such a situation when the husband of the lady died on 10.10.2003, the correct procedure which was required to be followed by the Bank was to advise the lady to contact her Record Office and follow the process required for claiming family pension when joint notification of wife is not there in husband's PPO. Such a process normally takes about 6-8 months and family pension for wife restarts on a new PPO.
- (c) The Bank, however, did not follow the correct procedure. The lady being illiterate (putting thumb impression on all correspondence) had no understanding of these procedures. So when the Bank started paying her family pension, she accepted it as normal because she as legally wife was entitled for her family pension.
- (d) The Bank woke up after 09 years in February, 2012 and on advice of PCDA (P), Allahabad and asked the lady to get a fresh PPO for family pension because her joint notification was not done. The Bank also informed that she will not be paid family pension with effect from 01.01.2012.
- (e) It is at this point that the lady started corresponding with Record Office and PCDA (P), Allahabad and making personal visits to these offices with her son who is the present applicant after her death.

- (f) Even after completing all paper formalities and cross checking done by the Zila Sainik Board officials, her family pension was not started due to one objection or the other from PCDA (P), Allahabad.
- (g) The lady tried her best being illiterate to rectify the observations with the help of Zila Sainik Board, but could not get her family pension restarted. She unfortunately expired after a struggle of about four years after the stoppage of her family pension.

9. We have tried to analyze the observations raised by PCDA (P), Allahabad which primarily relate to following issues:-

- (i) Delay explanation submitted by the widow for claiming her pension after 09 years of death of her husband was not found satisfactory by PCDA (P), Allahabad and the demanded a date-wise delay explanation from the illiterate widow.
- (ii) Difference between the date of Life Time Arrears (LTA) as given by the widow and the Life Time Arrears certificate provided by the Bank need for reconciliation to be done by the widow.
- (iii) A copy of PPO from which service pension had been claimed by her husband was required to be enclosed.
- (iv) Non-marriage certificate submitted by the widow was from Gram Panchayat Ballia whereas the lady is residing in

Lucknow which is not understood and the lady needs to submit the same from Lucknow.

10. If we look at these observations by PCDA (P), Allahabad, we realize that there is lack of empathy and compassion in this Organization for following reasons:-

- (a) The Organization is not at all user friendly for illiterate widows of Army Jawans. The culture of giving new and piecemeal observations on every original claim and subsequently re-submission is not a good practice and needs to be looked into by the highest level at PCDA (P) Allahabad.
- (b) The observations of PCDA (P), Allahabad demanding delay explanation, date-wise from widow, is beyond comprehension. It is a simple case of joint mistake by the Bank and the PCDA (P), Allahabad in releasing family pension to the widow, without joint notification. The banks don't pay defence pension on vacuum, there is a process of checks and balances between PCDA (P), Allahabad and Banks on the released amount of pension. If family pension was paid to an illiterate widow without joint notification for 10 years, it is certainly not the fault of the illiterate widow because she was in any case authorized for this pension. The procedural correctness was the responsibility of the Bank and PCDA (P), Allahabad and having failed in their duty, now they want date-wise explanation for delay from

the widow in claiming her family pension. It is intriguing that the delay explanation submitted by widow with active guidance of Zila Sainik Board officials and after vetting of Record Office is rejected by PCDA (P), Allahabad on flimsy grounds.

- (c) The second observation that the last date of Life Time Arrears (LTA) submitted by the widow and the Bank are differing is again a very interesting observation. We find that the date submitted by widow i.e. pension received till 31.12.2011 is absolutely correct and matching with the letter of Bank to her dated 13.02.2012 stating that her family pension has been stopped with effect from 01.01.2012. In this situation we fail to understand as to what is it additional information/date that the Bank has stated to PCDA (P), Allahabad which is causing difference of dates.
- (d) The third observation relates to the widow being asked to enclose a copy of PPO under which pension was sanctioned to her deceased husband. It is interesting to know that the PCDA (P), Allahabad is required to keep all PPOs in safe custody till 75 years of initial issue. The same is required to be kept in the Record Office as well as Bank. Hence it is not clear as to why the PCDA (P) Allahabad wants an illiterate widow to produce it to them.

(e) The last observation relates to the Non-marriage certificate of the widow. The observation is that she is residing in Lucknow whereas the Non-marriage certificate is from Gram Panchayat, Ballia and hence it is not understood. Here it is interesting to note that the letter to her from Record Office specifically states that the Non-marriage certificate has to be from a Gram Panchayat. Additionally, soldiers and families have permanent address and a second address for work residence during service and after retirement, hence, we are surprised that such observation can be put to deny family pension to a legitimate widow.

11. Smt Shyama Devi was an uneducated lady as it is borne out from the applications submitted by her to the authorities concerned which have been annexed along with the O.A. as Annexure Nos A-5, A-6 and A-7 which bear her thumb impression in the signatory block. It is admitted position that Smt. Shyama Devi (since deceased) was the legally wedded wife of No. 1436476, Sepoy Durg Vijay Singh who after retirement was in receipt of service pension and ultimately died on 10.10.2003. It is also admitted to the respondents that the PPO issued in favour of the deceased soldier did not contain joint notification, i.e. mention of name of the widow of the deceased soldier. However, family pension was paid by the concerned Bank to the widow (Smt. Shyama Devi) till 31.12.2011 without verifying joint notification and suddenly stopped payment of family pension to her from 01.01.2012 on the ground that the PPO did not contain joint notification of her name. Smt.

Shyama Devi approached the authorities of the PCDA(P) Allahabad and the Records Office BEG, Roorkee but instead of giving necessary assistance to her, neither the Bank concerned nor the concerned officials of the PCDA (P) Allahabad and Records, BEG, Roorkee extended any meaningful help to the uneducated and illiterate widow of the deceased soldier; rather they acted in a callous and apathetic manner to rectify their own acts of omission and commission in disbursing family pension correctly. These omissions of the concerned officials resulted in her pension being stopped. The very welfare scheme of Government of India in providing family pension to the widow of a deceased Army personnel has been defeated by the lackadaisical approach of the respondents to get the matter of payment of family pension to Smt. Shyama Devi finally settled. We are appalled by the treatment given to the widow of the deceased soldier by the concerned officials of the Organization and the Pension Disbursing Authority, i.e. the Bank. The deceased widow was made to approach this Tribunal for the inaction of the concerned officials to claim her legal right.

12. Keeping in view the fact that it is primarily the officials of the PCDA (P) Allahabad and Records, BEG, Roorkee who have dealt with the matter of payment of family pension to Smt Shyama Devi who was illiterate, in a very insensitive manner and she has been made to knock the doors of this Tribunal for the inaction and omission of the respondents, we are of the opinion that it is a fit case where in view of law settled by Hon'ble Supreme Court in the case of *Salem Advocate Bar Association, Tamil Nadu vs. Union of India AIR 2005 SC 3353*,

exemplary costs should be imposed which we quantify to Rs. 1,00,000/- (rupees one lac).

13. O.A. is accordingly **allowed**. We direct that the Records Office, BEG, Roorkee to depute an official to get all the formalities done in whatsoever manner required and complete the process within three months from the date of receipt of a copy of this order and make payment of arrears of family pension of deceased Smt. Shyama Devi, widow of No. 1436476, Sepoy Durg Vijay Singh within next four months to the substituted applicant Sunil Singh son of late Smt. Shyama Devi widow of No. 1436476, Sepoy Durg Vijay Singh. In case of delay in compliance of the directions of this Tribunal, the substituted applicant shall further be entitled to interest at the penal rate of 15% per annum on the arrears of family pension from due date, till date of actual payment.

14. Cost quantified to Rs. 1,00,000/- (Rupees one lac) shall be deposited by the respondents in this Tribunal within four months and the substituted applicant shall be entitled to withdraw the amount of cost. It would be open for the respondents to recover the amount of costs subsequently in equal amount from the Army personnel in Record Office and office bearers of PCDA (P), Allahabad who are directly at fault because of their acts of omission and commission in depriving a widow of her rightful family pension.

(Air Marshal BBP Sinha)
Member (A)

(Justice SVS Rathore)
Member (J)

Dated : July 18, 2018

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