

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 214 of 2016**Monday, this the 17th day of January, 2022**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Smt. Rajni Verma

Widow of Late Sapper (Sepoy) Manoj Kumar Verma
of 102 Engineer RegimentR/o 221/2, Sector C, Shantipuram, Phaphamau, Post Office –
Phaphamau, District – Allahabad (UP) – 211013

..... Applicant

Counsel for the Applicant: **Col BP Singh (Retd)**, Advocate
Versus

1. Chief of the Army Staff, Integrated HQ of Ministry of Defence (Army), South Block, New Delhi – 110011.
2. Sundari Verma, Village – Nandav ka pura, Post – Mukundpur, Tehsil – Soram, District – Allahabad.
3. Principal Controller Defence Accounts (Pension), Draupadi Ghat, Allahabad.
4. State Bank of India, Shantipuram Branch – 14577 661, Basant Vihar Colony, Near Lal Bahadur Shastri Homeopathic Medical Collage, Allahabad – 211013 through its Branch Manager.

.....Respondents

Counsel for the Respondents: **Shri Sunil Sharma**,
Central Govt. Counsel
Shri Himanshu Vaish &
Shri Alok Saxena,
Ld. Counsel for Private Respondent
Nos. 2 & 4**ORDER (Oral)**

1. The instant Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 with the following prayers:

- “(a) *Quash/set aside the Pension Payment Order No: f/010159/2009 dated 18.06.2009 in favour of Smt. Sundari Verma, mother-in-law of the applicant as the latter is entitled to full Special Family Pension and other pensionary benefits as a matter of right.*
- (b) *To set aside the investigation done by the Army Recruiting Office Amethi, District; Sultanpur, who illegally and in non-compliance of the principle of nature justice recommended the division of pension which was ultimately given to her vide Annexure No: 3 to the application.*
- (c) *Allow application with costs.”*

2. Facts giving rise to Original Application in brief are that husband of applicant was enrolled in the Army on 28.02.2000. While he was on out-pass for rail reservation he met with a train accident and died on 01.07.2004. His death was considered as attributable to military service. Therefore, Special Family Pension (SFP) @ Rs. 3825/- was sanctioned to the applicant vide PCDA (P) Allahabad PPO dated 01.03.2005. Subsequently, the respondent No. 2 (Smt. Sundari Verma – mother of the deceased soldier and mother-in-law of the applicant) submitted an affidavit dated 13.10.2006 to records office in BEG Kirkee for division of SFP, stating therein that the applicant has left her in-laws house after drawing all terminal/pensionary benefits. The matter was referred to Army Recruiting Office, Amethi for re-investigation who after investigation recommended vide letter dated 03.12.2006 for division of SFP between the applicant and respondent No. 2 @ 70% and 30% respectively. Consequently, PCDA (P) Allahabad notified 70% share in favour of the applicant and 30% share in favour of respondent No. 2 (mother of the deceased soldier) vide

PPOs dated 18.06.2009. The applicant represented her case to respondents but she was denied 100% share of LFP in her favour in view of para 228 (a) of Pension Regulations for the Army, 1961. Being aggrieved, the applicant has filed this Original Application.

3. Learned counsel for the applicant submitted that applicant's husband died on 01.07.2004 while on duty and therefore, applicant was granted Special Family Pension (SFP) being nominee. Subsequently, mother-in-law of the applicant started treating her in most atrocious and cruel manner for taking share in terminal and pensionary benefits so applicant left her in-laws house on 26.06.2004. On a representation sent by mother-in-law, division of SFP was recommended by ARO, Amethi and 30% share of SFP has been granted to mother-in-law from applicant's deserved and entitled SFP which is illegal and against the principles of natural justice.

4. The applicant by filing a supplementary rejoinder affidavit has objected division of SFP in favour of mother-in-law stating therein that mother of deceased soldier is having share in agricultural land/parental properties and getting old age pension and thus, she was not dependent on her son's income and therefore, division of pension under the provisions of Regulation 228 of Pension Regulations for the Army, 1961 was improper and unjust.

5. Learned counsel for the applicant further submitted that applicant submitted a petition dated 10.04.2012 to Engineer-in-Chief Branch, Army Headquarters with a copy to Record Office for grant of full pension to the applicant but it was rejected vide letter dated

26.04.2012 stating division of SFP has been done between the applicant and her mother-in-law under the provisions of para 228 of Pension Regulations for the Army, 1961 (Part-1). He further submitted that applicant is entitled for full SFP and mother-in-law has no right to seek division of pension and respondents have wrongly issued PPO granting 30% share to applicant's mother-in-law against the Pension Regulations. He pleaded for grant of full share i.e. 100% LFP in favour of the applicant.

6. In reply, learned counsel for the respondents for Union of India submitted that husband of applicant was enrolled in the Army on 28.02.2000. While he was on out-pass for rail reservation he met with a train accident and died on 01.07.2004 near Kalyani Railway station. His death was considered as attributable to military service. Therefore, Special Family Pension @ Rs. 3825/- was sanctioned to the applicant vide PCDA (P) Allahabad PPO dated 01.03.2005. Subsequently, respondent No. 2 (Smt. Sundari Verma – mother of the deceased soldier and mother-in-law of the applicant) submitted a representation/affidavit dated 13.10.2006 to Record Office, BEG Kirkee for division of SFP, stating therein that the applicant has left her in-laws house after drawing all terminal/pensionary benefits. The matter was referred to Army Recruiting Office, Amethi for investigation who after reinvestigation recommended vide letter dated 03.12.2006 for division of SFP between the applicant and respondent No. 2 @ 70% and 30% respectively. Consequently, PCDA (P) Allahabad notified 70% share in favour of the applicant and 30% share in favour

of respondent No. 2 (mother of the deceased soldier) vide PPOs dated 18.06.2009.

7. Learned counsel for the respondents further submitted that applicant feeling aggrieved submitted a petition dated 10.04.2012 directly to Engineer-in-Chief Branch, Army Headquarters with copy of Record Office. After due consideration, Record Office informed the applicant vide letter dated 26.04.2012 that as per para 228 of Pension Regulations for the Army, 1961 (Part-1) the SFP is granted to support of other family members of the deceased also and in view of the dispute, the family pension was divided between the applicant and her mother-in-law.

8. Learned counsel for the respondents further submitted that it cannot be a reason for restoration of 100% share of SFP in favour of the applicant that mother of the deceased soldier having share in agricultural land was not dependent on her son. The applicant is not eligible for restoration of 100% SFP in her favour and division between the applicant and mother of the deceased soldier has been done as per rules. Therefore, the applicant is not entitled for restoration of 100% SFP in her favour as per rules on the subject. He pleaded for dismissal of O.A.

9. Learned counsel for respondent No. 2 submitted that Special Family Pension has been given by the department for the purpose of welfare and fulfillment of the needs of all eligible legal heirs of the deceased soldier's family as per Regulation 216 of Pension Regulations, 1961 which were dependent upon the deceased and as

per provision of Regulation 228 (a), only one of among eligible heirs can be nominated as Nominee/recipient to the SFP, who take care of all other eligible heirs and in case, if the recipient of the SFP refused/denied to contribute proportionately towards the support of other eligible heirs in the family who were dependent on deceased soldier, the competent authority may divide at his discretion the SFP between the legal heirs of deceased soldier. As such, there is no illegality in the order passed by the official respondents for division of pension.

10. We have heard learned counsel for the parties and have also perused the record.

11. Para 228 (a) of Pension Regulations for the Army, 1961 (Part-1) is reproduced below :-

“228. (a) If the recipient of special family pension refuses to contribute proportionately towards the support of other eligible heirs in the family who were dependent upon the deceased soldier or non-combatant, or if the pension is in the name of a child but is not devoted to the interest of the family generally, a competent authority may, on the basis of the verification/ investigation report rendered by the Recruiting Organization and attested or countersigned by any one of the under mentioned local civil authorities, divide, at his discretion, the special family pension among the eligible heirs of the deceased soldier or non-combatant.”

12. We find that initially Special Family Pension was sanctioned to the applicant vide PCDA (P) Allahabad PPO dated 01.03.2005 being legal heir/nominee for receipt of full terminal and pensionary benefits. Subsequently, the respondent No. 2 (Smt. Sundari Verma – mother of the deceased soldier and mother-in-law of the applicant) submitted a petition/affidavit dated 13.10.2006 to Record Office, BEG Kirkee for

division of SFP, stating that the applicant has left her in-laws house after drawing all terminal/pensionary benefits leaving them alone without any financial assistance and therefore, she should also be given share in pension for her livelihood. Therefore, matter was reinvestigated by Army Recruiting Office, Amethi and division of SFP between the applicant and respondent No. 2 @ 70% and 30% was recommended. Accordingly, PCDA (P) Allahabad notified 70% share in favour of the applicant and 30% share in favour of respondent No. 2 (mother of the deceased soldier) as per para 228 (a) of Pension Regulations for the Army, 1961 (Part-1) which is as per rules.

13. In the result, we hold that claim of full share of LFP (100%) in favour of the applicant after disallowing to mother-in-law from her 30% share has rightly been rejected by the respondents as per rules which need no interference. Resultantly, O.A. is **dismissed**.

14. No order as to costs.

15. Pending Misc. Application(s), if any, shall be treated to have been disposed off.

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

Dated: January, 2022

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