

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

ORIGINAL APPLICATION No. 372 of 2020

Thursday, this the 21st day of October, 2021

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

Smt Shanti Singh D/O Late Sep Ram Naresh Singh (Martyr),
Village & Post Office-Harayya, Tehsil-Beni Ganj, Distt-Hardoi
(U.P.)-241304.

..... Applicant

Ld. Counsel for the : **Col RC Dixit (Retd)**, Advocate.
Applicant

Versus

1. Union of India, through Secretary of Defence, Ministry of Defence, D (Pension Grievances), 227-B Wing, Sena Bhawan, New Delhi-110011.
2. The Chief of Army Staff, Integrated Headquarters of MoD (Army), Sena Bhawan, DHQ, PO-New Delhi-110011.
3. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.)-211014.
4. Chief Records Officer, Rajput Regiment Records, Fatehgarh Cantt, Farrukhabad (U.P.)-209601.

.....Respondents

Ld. Counsel for the
Respondents.

Shri Yogesh Kesarwani,
Central Govt. Counsel

ORDER

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

(i) Publication of Part II Order in respect of Martyr's daughter (applicant) along with grant of special family pension with all arrears and interest on entire delayed payments since 06.01.2002 onwards. The last special family pension was sent in the month of January 2002, when due to death of applicant's grand mother Janak Kunwar special family pension had stopped. Since the day of pension stoppage applicant had been running around the Records Rajput Regimental Centre, Fatehgarh but no action on the part of authorities.

(ii) Grant of penalty for unwanted, unexpected and undesirable mental agony and harassment caused to sincerely entitled and deserving applicant (widowed dependent daughter of a martyr Sepoy Ram Naresh Singh) for 18 long years with no response to applicant's letters by the Records Rajput Regimental Centre, Fatehgarh. The applicant has suffered unwanted miseries and with no money to sustain herself picked up serious ailments of arthritis, asthma and diabetes, all, due to unwanted neglect and apathy of the Records Rajput Regimental Centre, Fatehgarh.

(iii) Pass any other order as the Hon'ble Tribunal deems appropriate in the matter along with cost.

2. Brief facts of the case are that Sep Ram Naresh Singh sacrificed his life in the Indo-Pak War-1965 and his widow Smt Bitoli Devi was granted family pension vide PPO No. F/4835/65 dated 15.12.1965 which was finally converted into liberalised family pension being the case of battle casualty. After death of Smt Bitoli Devi on 01.10.1988, the aforesaid pension was transferred in the name of Smt Janak Kunwar, mother of the Deceased soldier who also expired on 06.01.2002. In the year 2016, applicant claiming to be widowed daughter of the

deceased soldier wrote letter to Records, The Rajput Regiment for grant of pension. Since her name was not recorded in service documents of the deceased soldier, it was got verified through Tehsildar, Sub Divisional Magistrate and Zila Sainik Board and ultimately a Part II Order to this effect was notified vide No. 1/08127/2020 dated 24.10.2020 during pendency of this O.A. and she became entitled for grant of liberalised family pension. Accordingly, she approached Records, The Rajput Regiment for grant of pension. The Record Office vide letter dated 30.10.2020 asked certain documents for processing pension claim to PCDA (P), Allahabad. This O.A. has been filed for grant of liberalised family pension.

3. Submission of learned counsel for the applicant is that applicant is widowed daughter of the deceased soldier and she is entitled to receive liberalised family pension w.e.f. the date next to the date of death in respect of Smt Janak Kunwar, grand mother of applicant. The learned counsel pleaded for grant of liberalised family pension to applicant.

4. On the other hand, submission of learned counsel for the respondents is that applicant's name was not found recorded in service documents of the deceased soldier and that was the only reason for denial of pension to her. He conceded that during the pendency of O.A., publication with regard to notifying her name and date of birth has been done vide Part II

Order No. 1/0827/2020 dated 24.10.2020. He, however submitted that a set of pension documents related to applicant have been forwarded for completion and return vide letter dated 30.10.2020 so that her claim could be processed.

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

6. Widow of the deceased soldier was in receipt of family pension which was converted into liberalised family pension due to death of her husband in enemy action. The idea behind granting liberalised family pension was that the widow and children of the deceased may not suffer on account of death of the incumbent. Therefore, it was a very laudable concept introduced on 30.10.1987 which has undergone changes from time to time and various circulars have been issued on this issue on the basis of recommendations of Fifth, Sixth and Seventh Central Pay Commissions.

7. Learned counsel for the applicant submitted that applicant is legitimate widowed daughter of the deceased soldier. In this regard, para 215 and 216 of Pension Regulations for the Army, 1961 are relevant, which for convenience sake are reproduced below:-

*"215. **Pension Intended for the Whole Family.** Special family pension is intended for the support of all the eligible members of a family, irrespective of in whose name it stands.*

216. **Eligible Members of the Family.** *The following members of the family of a deceased individual shall be viewed as eligible for the grant of a special family pension, provided that they are otherwise qualified:-*

(i) Widow/widower lawfully married. It includes a widow who was married after individual's release/retirement/ discharge/ invalidment.

(ii) Son actual and legitimate/including validly adopted.

(iii) Daughter, actual and legitimate/including validly adopted.

(iv) Father.

(v) Mother.

(vi) Brother.

(vii) Sister.

From the aforesaid, it is apparent that applicant, who is widowed daughter of the deceased soldier, is entitled to receive liberalised family pension in respect of her deceased father after death of her grand mother on 06.01.2002.

8. It is undisputed fact of both the parties that Smt Bitoli Devi, widow of deceased soldier was in receipt of pension and after her death it was transferred in the name of Smt Janak Kunwar, mother of the deceased soldier. Smt Janak Kunwar expired on 06.01.2002 and pension was stopped by PCDA (P), Allahabad as no other members of family was eligible for grant of pension. Applicant Smt Shanti Singh, who claimed to be a widowed daughter of the deceased soldier, came forward to receive this pension but unfortunately her name was not found

recorded in service documents held by Records, Rajput Regiment, Fatehgarh.

9. In the year 2016, applicant submitted an application for grant of pension of her deceased father but it was denied on the ground that her name was not found recorded in service documents. A detailed survey was done by Zila Sainik Board in consultation with Additional District Magistrate and it was finally established that applicant is widowed daughter of the deceased soldier.

10. During pendency of the O.A. Part-II Order notifying her date of birth was published on 24.10.2020 and thus, we are of the view that applicant is entitled to receive pension in respect of her deceased father.

11. In the facts and circumstances of the case, applicant is entitled to receive liberalised family pension after death of her grand mother who expired on 06.01.2002.

12. In view of the above, applicant is held entitled to receive liberalised family pension due to her w.e.f. February 2002 but due to law of limitations she is entitled to receive aforesaid pension from three years prior to filing of this O.A. which was filed on 25.08.2020. Respondents are directed to release the aforesaid pension alongwith arrears within a period of four months after receipt of certified copy of this order.

13. The rule and regulations are guidelines and must be judiciously applied and implemented, keeping in mind the honour and welfare of all ranks and their dependents in the Armed Forces. It is undisputed fact that grand mother of the applicant expired on 06.01.2002 but due to non publication of her birth Part II Order, pension was delayed. Records the Rajput Regiment, Fatehgarh have asked certain documents for processing of pension claim which applicant is directed to furnish duly completed as early as possible so that her due pension could be released without further delay.

14. In view of the above, O.A. is allowed.

15. No order as to costs.

16. Pending miscellaneous applications, if any, shall stand disposed off.

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

Dated: 21.10.2021
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