

ARMED FORCES TRIBUNAL, REGIONAL BENCH
SRINAGARAT JAMMU
(THROUGH VIDEO CONFERENCING)

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OA 45 of 2021

Thursday, the 20th day of Oct, 2022

CORAM:

HON'BLE MR JUSTICE DHARAM CHAND CHAUDHARY, MEMBER (J)
HON'BLE VICE ADMIRAL HCS BISHT, MEMBER (A)

Smt. Chanchala Devi Applicant

(By Mr.Arjun Bhatia, Advocate)

Versus

Union of India and Others Respondents

(By Mr.Rajat Gupta, Sr PC)

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ORDER

Justice Dharam Chand Chaudhary, Member (J) Oral:-

The applicant aggrieved by the order Annexure A-1 whereby her claim qua grant of family pension rejected, has preferred the present application with the prayer to quash and set aside the same and also seeking a direction to the respondents to grant ordinary family pension to her.

The facts of the case in a nutshell are that the applicant was married to deceased Ex Hav. Chuni Lal. The husband of the applicant was enrolled in the Army on 01.03.1960 and discharged there from on 25.11.1974 after rendering 14 years 8 months and 25 days service. The applicant's husband was not granted service pension as he was falling short of 3 months 5 days for qualifying service i.e.15 years. Husband of the applicant made a representation dated 26.11.2007 to OIC Records, JAK Li to condone short fall of service in the light of Ministry of Defence, Govt. of India letter dated 14.08.2001(Annexure A-7), the same was rejected by the respondents vide letters dated 26.12.2020 and dated 14.05.2008 (Annexure A-1 and Annexure A-2). The husband of the applicant died on 17.01.2014 leaving behind

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(Section 25(1)(d))

the applicant his widow, three minor daughters and one minor disabled son. The applicant an unfortunate widow thus left behind without any source of livelihood has made several representations for the grant of family pension, last being dated 23.12.2020 (Annexure A-8), however, rejected by the respondents. The respondents did not consider the miserable plight of the applicant and to the contrary declined to grant her family pension, hence this application.

We have heard learned counsel representing the parties on both sides and also gone through the record

On analysing the rival submissions and also the rules and regulations applicable as well as the law laid down, we find that the respondents have erroneously rejected the claim of the applicant for the grant of ordinary family pension on the ground inter alia that husband of the applicant was not eligible for condonation of shortfall in service being discharged on his own request well before the completion of the qualifying service i.e. 15 years.

The conclusion of the matter so drawn by us is based upon the Government of India Instructions dated 14.08.2001 (Annexure A-7) whereby approval for condonation of shortfall in qualifying service for grant of family pension in respect of PBOR beyond six months and upto 12 months has been granted.

The family comprising the applicant, three daughters and one minor disabled son was completely dependant upon the deceased husband of the applicant. The liabilities and responsibilities on his death all such towards the family got shifted upon the applicant. Therefore, in our considered opinion, the applicant is entitled to the grant of ordinary family pension.

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(Section Officer)
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For all the reasons hereinabove, the impugned order Annexure A-1 and A-2 are quashed and set aside. The respondents are directed to grant the ordinary family pension in favour of the applicant with all consequential benefits from due date i.e. the day next to the death of her husband. The arrears, if any, shall be calculated and paid to her within three months from the date of receipt of certified copy of this order by learned Senior Panel Counsel/ OIC, Legal Cell, failing which together with interest @ 8% per annum till realisation.

The application is, accordingly, disposed of so also the pending Misc. Application (s) if any.

No order so as to costs.

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(HCS Bishr)
Vice Admiral (Retd)
Member (A)
20th Oct, 2022
pk

(Justice Dharam Chand Chaudhary)
Member (J)

Prepared by *[Signature]* 23/11/22

Checked By *[Signature]*
23/11/22

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[Signature]
(Section Officer)
23/11/22