

COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

3.

OA 3593/2023 WITH MA 4869/2023

Ratni Devi Wd/o Ex Nk Kailash Chandra Meena ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Mr. Raj Kumar, Advocate

For Respondents : Ms. Theepa Murugesan, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

O R D E R
20.11.2023

MA 4869/2023

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in *Union of India and others v. Tarsem Singh* (2008) 8 SCC 648, the MA is allowed condoning the delay in filing the OA.

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2. In this OA, the applicant, widow of Ex Nk Kailash Chandra Meena, is seeking a direction to the respondents to grant second service pension to her late husband for the service rendered by him in Defence Security Corps (DSC) by condoning the deficiency in qualifying service and for grant of family pension based on her late husband's second service in the DSC.

3. We have heard the learned counsel for the parties and perused the documents available on record.

4. It is the conceded position that the husband of the applicant had rendered 14 years, 08 months and 09 days of service in DSC and there is a shortfall of 110 days against the mandatory 15 years of qualifying service, which made him ineligible for the second service pension for the service rendered with DSC.

5. As already noted, the applicant is the widow of Ex Nk Kailash Chandra Meena. The husband of the applicant was re-enrolled in the DSC on 22.05.2004 and was discharged from service on 31.01.2019, after rendering 14 years, 08 months and 09 days of service. However, there was a shortfall of 110 days to complete the qualifying service for second service pension. The husband of the applicant died on 03.05.2018.

6. The question involved in this case is no longer *res integra*, as the same had already been settled by this Tribunal in the case of Bhani Devi Vs. Union of India and others (O.A. No. 60 of 2013 decided on 07.11.2013) and Smt Shama Kaur Vs. Union of India and Ors (OA No.1238 of 2016 decided on 14.10.2020). Taking into account the aforesaid factual and legal aspects, the shortfall of 110 days to complete 15 years of qualifying service in DSC by the husband of the applicant to get second service pension is liable to be condoned. There is no doubt that as per Section 2(2) of the Armed Forces Tribunal Act, 2007, widows of defence personnel have right to approach the Tribunal in the capacity of being dependent, heir or

successor in so far as it relates to service matters of deceased personnel, which term includes pension as per Section 3(o)(i) of the said Act.

7. In the light of the aforesaid findings, we hold that the late husband of the applicant is eligible for condonation of shortfall of 110 days and, therefore, eligible for second service pension also for the services rendered in the DSC with effect from 01.02.2019 till his death, i.e., 03.05.2018. Further, from 04.05.2018 the applicant being the widow of Ex Nk Kailash Chandra Meena will be eligible for second family pension, in addition to the first family pension.

8. Taking into account the aforesaid factual and legal aspects, we are of the considered view that the facts of this case are squarely covered by the decisions in *Bhani Devi* and *Smt Shama Kaur* (supra) and, therefore, the shortfall of 110 days to complete 15 years of qualifying service in DSC by the late husband of the applicant to get second service pension is liable to be condoned, which will enable the applicant also to get second family pension from the date on which her husband died.

9. The instant OA is, therefore, allowed with the following directions:

- (i) The shortfall of 110 days of qualifying service for second service pension in respect of the late husband of the applicant is condoned;

(ii) Subject to verification of records, the respondents are directed to issue a corrigendum PPO granting service pension for the service rendered by the late husband of the applicant in DSC with effect from 01.02.2019 till his death, i.e., 03.05.2018 and thereafter second family pension to the applicant with effect from 04.05.2018;

(iii) The respondents are directed to calculate and pay the arrears of second service pension of the late husband of the applicant with effect from 01.02.2019 till his death on 03.05.2018;

(iv) The respondents are further directed to calculate and pay the arrears of second family pension with effect from 04.05.2018;

(v) The respondents shall implement this order within four months from the date of receipt of a copy of this order. In default, the applicant will be entitled to interest @ 6% per annum till payment.

10. No order as to costs.

[RAJENDRA MENON]
CHAIRPERSON

[P. M. HARIZ]
MEMBER (A)