

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT  
NEW DELHI**

O.A. No. 127/2010

Smt. Kamla Devi .....Applicant

Versus

Union of India & Others .....Respondents

For applicant: Sh. D.V.S. Yadav, Advocate.

For respondents: Sh. Anil Gautam, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.**

**ORDER  
06.09.2010**

1. Applicant by this application has prayed that order dated 22.12.2009 being arbitrary and illegal may be set aside and family pension may be restored to the applicant from 1980 and arrears may be worked out and released with 12%.

2. Applicant is the widow of late Naik Sis Ram who was enrolled in the regular army as combatant soldier on 20.06.1963 after having found physically and medically fit. Late husband of

the applicant while serving with 259 Coy ASC (supply) died on 31.07.1968. After death of the applicant's husband she was granted family pension we.f. 01.08.1968. But suddenly in the year 1980 the family pension was discontinued without any process of law. Applicant made representations from time to time but without any result. On 09.11.2009 a legal notice was served on the respondents for release of the family pension from the date of its discontinuation with interest. Applicant was informed on 22<sup>nd</sup> December, 2009 that the applicant has already remarried; therefore, she was disqualified for family pension. Therefore, applicant has approached this Tribunal by filing the present application. She also asked for certain documents but her request was rejected being made at a belated stage.

3. A reply was filed by the respondents and they contested the matter. Respondents in reply have stated that applicant was in receipt of the ordinary family pension but consequent to her remarriage with her real brother-in-law, she was disqualified to receive the ordinary family pension and same was accordingly discontinued. It is also submitted by the respondents that husband of the applicant while serving with 259

Coy ASC (supply) had committed suicide on 31.07.1968. Special family pension claim in favour of the widow was adjudicated by Pension Sanctioning Authority viz Principal Controller of Defence Account (Pensions), Allahabad and rejected as the death of her husband was due to suicide which is neither attributable nor aggravated by Military Service. However, ordinary family pension in favour of applicant had been notified and applicant was drawing her family pension from Post Master, Gurgaon. But it was discontinued because of the remarriage of applicant with her brother-in-law.

4. We have heard learned counsel for the parties and perused the record. Suffice it to say that applicant was released ordinary family pension and same was discontinued in 1980, at least she should have been served with the notice but this seems to have not been done and suddenly family pension was discontinued on the ground that she has remarried. Subsequently in the Circular dated 12<sup>th</sup> November, 2008 issued by the Government for the implementation of the Sixth Pay Commission's recommendations, it is clearly mentioned that remarriage is no more disqualification for family pension. In that

connection our attention is invited to para 11.3 of the aforesaid Circular. Similar question came before us in the case of **Saroj Devi vs. Union of India & Others [O.A. No. 187/2009]** and in that case we have allowed the family pension and quashed the condition that the aforesaid Circular will be applicable from 01.01.2006. Thus, we allow this application and direct that the family pension may be released. Arrears of three years preceding from the date of filing of the present application i.e. 25.02.2010 may be worked out and released to the applicant with interest 12% p.a. within a period of 90 days from today. No order as to costs.

**A.K. MATHUR**  
**(Chairperson)**

**M.L. NAIDU**  
**(Member)**

**New Delhi**  
**September 06, 2010.**