

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

TA No.330/2009

[WP (Civil) No. 2004/1996 of Delhi High Court]

Smt. Ram Rati Devi

.....Petitioner

Versus

Union of India & Others

.....Respondents

For petitioner: Sh. R.K. Thakur, Advocate.

For respondents: Ms. Swatee Singh Sachan, proxy counsel for
Dr. Ashwani Bhardwaj, Advocate with Capt.
Alifa Akbar.

CORAM:

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. S.S. DHILLON, MEMBER.**

ORDER
09.02.2010

1. The present petition has been transferred from Hon'ble Delhi High Court to this Tribunal on its constitution.
2. Petitioner by this petition has prayed that respondents may be directed to grant pensionary benefits to petitioner wife of late Naik Dharampal Singh Yadav w.e.f. date of his death with interest.

3. Brief facts which are necessary for disposal of the present petition are that husband of the petitioner was enrolled in the Army on 27.02.1963 and after training he was posted at 509, ASC Battalion, C/o 56 APO where he was detained on temporary duty with HQ Central Command, Lucknow during October, 1966. While on temporary duty at Lucknow, he fell sick and admitted to the Military Hospital on 27.12.1966. He remained seriously ill for months and he was invalided out by Medical Authorities at Military Hospital, Lucknow against the consent of the petitioner's husband for his illness Malignant Hypertension. Thereafter, he was hospitalised at Meerut and expired on 26.04.1967 due to Malignant Hypertension and Chronic Renal Failure. Wife of the deceased requested for the pensionary benefits on account of death of her husband and she was informed from time to time that cause of death is not attributable to Military Service. Thereafter in 1996 she filed a petition before Hon'ble High Court which has been now transferred to this Tribunal after its formation.

4. The matter came before us and we directed the respondents to produce medical records pertaining to deceased husband of the petitioner. Thrice time has been given to the respondents for securing the medical record but we have been

informed that it is not possible as record has been destroyed after such a long time. We have perused the record and from the record it appears that husband of the petitioner was boarded out from service on account of Malignant Hypertension and Chronic Renal Failure and both according to the medical report are not attributable to Military Service. Therefore, on this count husband of the petitioner deceased Dharam Pal Yadav was not granted disability pension.

5. We have bestowed our best of our consideration to the submissions of rival parties. Looking to the time which has passed record is not available and from the available record it does not transpires that cause of death of the deceased has anything to do with the Military Service. Therefore, in these circumstances we cannot grant any relief to the petitioner in the present case. Consequently, there is no merit in the case. Same is dismissed. No order as costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
February 9, 2010.