

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

T.A. No. 431/2010
[W.P. (C) No. 3808/2008 of Delhi High Court]

Kamla DeviPetitioner

Versus

Union of India & OthersRespondents

For applicant: Sh. M.K. Gaur, Advocate.

For respondents: Sh. Ankur Chibber, Advocate.

CORAM:

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

**ORDER
20.09.2010**

1. Petitioner by this petition has prayed that respondents may be directed to grant special family pension to the petitioner from the date of death of her husband on 29th October, 1997 as per the relevant rules and regulations.

2. Petitioner is wife of late Hav. Roop Chand who was inducted into service on 13.11.1982 after careful medical examination. Petitioner's husband died on 29th October, 1987 at the Base Hospital, Delhi Cantt with the disease Advanced Adeno Carcinoma Rectom (Optd). Petitioner was granted ordinary family

pension whereas according to the petitioner she is entitled to special family pension on the ground that her husband died in harness in Base Hospital in Delhi. Petitioner approached Hon'ble Delhi High Court and Hon'ble High Court directed the respondents to dispose of the appeal pending with them with a reasoned order not later than 30th April, 2006. Appeal was considered and detailed reason was accorded. Thereafter, appeal was filed against the order which was also rejected. He again approached Hon'ble Delhi High Court by filing the present petition which was transferred to this Tribunal on its formation.

3. Respondents filed their reply and took the position that petitioner's death is not attributable to Military Service and in that connection they invited our attention to Guidelines to the Medical Officers (Military Pensions) issued under the Regulations 48, 173 and 185 and at para J. 1 of Annexure III to Appendix II it is clearly mentioned that malignant diseases i.e. cancer and carcinoma are not affected by the Military Service. Learned counsel for the respondents has also produced before us the findings given by the Medical Board and Medical Board after detailed discussion has taken the view that the disease was not attributable to the Military Service.

4. Learned counsel for the petitioner has invited our attention to recent Circular in the year 2008 where it is mentioned that this disease could cause on account of occupational hazards like serving in the Nuclear establishments or dealing with the electro magnetic equipments and Communication Radar etc. Learned counsel for the petitioner submitted that petitioner is working in Signal Unit and it is disputed by learned counsel for the petitioner that some communication equipment has affected him. This Circular was issued in 2008 which is not applicable in the case of the petitioner more so applicant was died long back on 29.10.97. Therefore, we cannot send him for re-examination by the Medical Board with reference to Circular of 2008. The wife of the petitioner is already getting the family pension. Therefore, we do not find any merit in the petition. Same is dismissed. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
September 20, 2010.