

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

20.

O. A. No. 280 of 2010

Smt Santosh Devi

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh. A. K. Trivedi and Sh. M. K. Gaur, Advocates

For respondents: Sh. Mohan Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER

11.03.2011

1. The petitioner, by this petition has prayed that the order dated 18.3.2009 may be set aside and the respondents may be directed to grant ordinary family pension to the petitioner in the light of Circular No. 336 dated 15.4.2005 as well as in light of the judgment dated 11.8.2006 given in the case of "Smt. Phoolmati Devi Vs. Union of India And Ors. in WP(C) No. 16873/2006" decided by the Hon'ble Delhi High Court.

2. The petitioner's son was enrolled in the Army on 7.3.2006 and he was found dead at the Railway Line, near Haldu Chaur, Railway Station Saldwani (UA) on 16.9.2006 due to fall from the running train and even the dead body of her son was not received by her and the same was cremated at the same place by the Civil Police. Therefore, she has prayed for grant of family pension but the same was rejected on the ground that her income was more than Rs.2,550/- per month.

Learned counsel for the petitioner has invited our attention to the decision of the Hon'ble Delhi High Court in the case of **"Smt. Phoolmati Devi Vs. Union of India And Ors. in WP(C) No. 16873/2006"**, wherein Hon'ble Delhi High Court has taken the view that the basic income should be taken into consideration for denying the family pension to the parents of the deceased Sepoy and in the present case, as per the petition, the petitioner's basic income is Rs.2,373/- plus Rs.688/- as 29% DNS relief. Therefore, in total, it comes to Rs.3,061/- per month. Learned counsel for the petitioner submits that the basic income or the pension which has been laid down on 26.8.1998 has become too meagre and it needs to be revised.

3. Reply has been filed by the respondents and the respondents have taken the position that on account of the income criteria fixed, the income of the petitioner is Rs.3,061/- per month. Therefore, she is not entitled to family pension on account of death of her son. The income which has been fixed in the year 1998 has become too meagre today in 2011. It appears that no thought has been given to increasing this income in the changed scenario of devaluation of money value. It is time when the Government should wake up to increase the amount of income to a respectable figure. So far as decision of the Hon'ble Delhi High Court in the case of **"Smt. Phoolmati Devi Vs. Union of India And Ors. in WP(C) No. 16873/2006"** (supra) is concerned, it says that the basic salary/pension is to be taken into consideration and not the other allowances. The petitioner's basic income is Rs.2,373/- i. e. less than Rs.2,550/- per month, therefore, the petitioner is entitled to ordinary family pension on account of death of her son. The same may be released within a period of three months. Thus, we allow this petition and direct the respondents to release ordinary family pension to the petitioner. We also direct that the Government should consider

to increase the minimum amount of basic income/pension for grant of family pension from Rs.2,550/-. We hope and trust that the Government will look into the matter and take appropriate steps. The petition is allowed with no order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
March 11, 2011