

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

26.

O. A. No. 523 of 2010

Smt. Shakuntla Devi

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh. K. P. Singh Chauhan, Advocate.

For respondents: Sh. Ankur Chhibber, Advocate.

CORAM:

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

HON'BLE LT. GEN. Z. U.SHAH, MEMBER.

ORDER

27.5.2011

1. The petitioner, by this petition has prayed that the impugned order dated 28.10.1987, 9.7.2010 and 17.7.2010 may be quashed and the respondents may be directed to pay special family pension w. e. f. 23.1.1987 along with interest @ 24%.

2. It is submitted that the husband of the petitioner was enrolled in the Indian Army on 22.2.1966 and he remained in service till 22.1.1987. When he died, he was in the unit location. The petitioner was granted ordinary family pension and she has filed this petition for grant of special family pension. The unit forwarded the papers for grant of special family pension to PCDA(P), Allahabad which was rejected vide letter dated 13.10.1987 stating that the death of petitioner's husband is not attributable to military service. Thereafter, again,

the request was sent by the Regiment for grant of special family pension on 4.7.2009 and in that it was clearly mentioned that the petitioner was on bonafide military duty but without any result. Therefore, the petitioner has approached this Tribunal with this petition. Though the petition is extremely belated as the special family pension was denied to the petitioner way back in 1987 but it appears that the Record Office again took up the matter to the authorities for grant of special family pension but that was not acceded to and thereafter this petition was filed.

3. Respondents have contested the matter and stated that the petitioner is not entitled to family pension. The Court of Inquiry was held and the finding of the Court of Inquiry was that the petitioner's husband died natural death and viscera was also sent and the result came later on that a small quantity of poison was found on some part of viscera (1.50). Learned counsel for the petitioner submitted that as per Regulation 213 of the Army Rules, the petitioner is not entitled to special family pension as her husband did not die on account of military service.

4. We have heard learned counsel for the parties and perused the record.

5. As a matter of fact, in the Court of Inquiry, it has come to light that the petitioner's husband was in the unit and was on military duty when he died. As per the finding of the Court of Inquiry, the petitioner's husband was on military service and he died on account of chest pain and his viscera was found to be

containing a small quantity of poison. Since the Court of Inquiry held that the death of petitioner's husband has taken place while he was on duty, if we liberally construe the death on account of military service and as per Regulation 213 of the Army Rules, the petitioner should be entitled to special family pension. These are the social measures for the benefit of the family of soldiers. Therefore, these provisions should be construed liberally. As the finding of the Court of Inquiry was that the petitioner's husband died while on military duty, therefore, he should be taken to be a person who has died in military service and his death is attributable to military service. Consequently, we allow this petition and direct that the case of the petitioner may be processed for grant of special family pension. Since the petitioner died on 22.1.1987 and the petition has been filed before this Tribunal in 2010, therefore, the petitioner will not be entitled to arrears from 1987. However, she will be entitled to benefit of arrears for three years preceding the date of filing of the petition i. e. 1.9.2010. The arrears may be worked out and given to her.

6. The petition is allowed in part with no order as to costs.

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

**Z. U. SHAH**  
(Member)

New Delhi  
May 27, 2011