

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
23.

O.A. No. 116 of 2012

Smt. Veena Pant

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. R. P. A. Jaiswal, Advocates.
For respondents: Mr. S.K. Sethi, Advocate for R-1 to R-3.
None for R-4.

CORAM:

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

ORDER
31.10.2012

1. Petitioner by this petition has prayed that she may be granted dual family pension with effect from the date the matter for grant of dual family pension was notified i.e. 27th July 2001 and to award interest on the arrears of accumulated pension and the ensuing pension till the disbursement of the dual family pension to the Petitioner. The Petitioner is widow of late Vinod Chandra Pant who was combatant member in the Indian Air Force and he was enrolled in the Indian Air Force on 6th January 1967 and on completion of his term of engagement he was discharged from service on 31st January 1982 with pension. Thereafter he was re-employed in the Reserve Bank of India (RBI) but unfortunately he expired on 1st September 1996. Petitioner claimed a family pension on the death of late Vinod Chandra Pant from Air Force and also from the RBI. She approached to the Air Force Office and there the family pension was lesser than the pension from Civil Services and she opted for a family pension from RBI as at that time no dual family pension was available to family of an airman. The Petitioner approached the Air

Force Records Office for grant of a family pension in the month of November 1998 and by the letter dated 16th November 1998 she was issued a certificate that "ordinary family pension has not been/will not be granted to Smt. Veena Pant w/o late Vinod Chandra Pant from Air Force side." and she was drawing family pension from RBI on the basis of that letter. Thereafter the Petitioner moved the Government in view of the letter dated 27th July 2001 whereby dual family pension was said to have been acceded by the Government. It was mentioned that the family pension admissible under the Employees Pension Scheme, 1995, and the Family Pension Scheme, 1971, shall however, be allowed in addition to the family pension admissible under these rules. But this request was turned down by the Record Office. Thereafter a notice was given and ultimately Petitioner filed this petition for grant of dual family pension.

2. Learned counsel for the Petitioner submitted that in view of this clarification issued by the notification dated 27th July 2001, the Petitioner is entitled to an ordinary family pension from the Air Force and also from the RBI as her husband has also put in services in the RBI. Learned counsel for the Respondents has invited our attention to the Central Civil Services Pension Rules, 1972 and the amendment which has been made under Rule 54 sub Rule (13B) and submitted that as per this notification this is only for a person who draws a dual family pension permissible under the Employees Pension Scheme, 1995, and the Family Pension Scheme, 1971 and not to any other person. Since the Petitioner was not a member of Employees Pension Scheme, 1995 and Family Pension Scheme, 1971 therefore she is not entitled to benefit of the notification. The submission of learned counsel for the Respondents appears to be justified with reference to this notification but the larger

question is that there has been no such provision which prohibits grant of a family pension to the personnel from the Armed Forces who have put in requisite qualifying service for pension. Once a person who completes his tenure of service and qualifies for a pension and thereafter he engages in any other independent organisation and, there also he qualifies for pension and gets a pension, there is no prohibition in the Pension Regulations for the Armed Forces, Army or Navy or Air Force to deny the pension. We have already taken a similar view in the case of **Smt. Om Bati v. Union of India (O.A. No. 141 of 2010 decided on 29th September 2010)** and **Smt. Suman Lamba v. Union of India (O.A. No. 270 of 2011)**. Similarly, in the present case the pension is regulated by the Air Force Pension Regulations. There is no prohibition which has been brought to our notice from the Air Force Pension Regulations nor did we find any prohibition in the Pension Regulation for the Army, 1961 which prohibits dual pension to a person who have put in requisite service for getting a pension on account of completion of his service in the Army or Navy or Air Force. In case a person after putting in qualifying service, a pension is released to him and he is entitled to another family pension in other organisation after putting qualifying service for pension then there is no prohibition denying pension to the person from Army, Air Force or Navy. Therefore, we are of the opinion that in the present case irrespective of the fact that the Petitioner has sought no objection certificate from the Air Force for drawing a pension from the RBI because her husband has already completed qualifying service in the RBI and no objection certificate was granted and that does not operate as estoppel against her. Therefore, we are of the opinion that the denial of the family pension to the Petitioner in view of death of her husband Corporal Vinod Chandra Pant is not justified. Therefore, she will be entitled to family pension on account of death of her husband

Corporal Vinod Chandra Pant from 1st December 1998 and that amount should be released to her and she will continue to get the family pension from the Air Force.

3. Hence, the petition is allowed with no order as to costs. The family pension should be worked out and released to the Petitioner as far as possible within three months from December 1998, without any interest.

4. Order dasti.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
October 31, 2012
dn/pd