

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

**12.**

**O.A. No. 270 of 2011**

**Smt. Suman Naruka**

**.....Petitioner**

**Versus**

**Union of India & Ors.**

**.....Respondents**

**For petitioner:** Mr. J.S. Mann, Advocate.

**For respondents:** Ms. Sangeeta Tomar, Advocate for R-1 to R-3  
None for R-4 to R-6

**CORAM:**

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

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

**ORDER**  
**19.04.2012**

1. Petitioner vide this petition has prayed that respondents be directed to revive the Family Pension of the petitioner from Air Force w.e.f 27.07.2001 as well as make payment of arrears of Family Pension from 27.07.2001 onwards. She has also prayed interest @ 24% per annum w.e.f. 27.07.2001 for the period of delay in making revival of the Family Pension to the petitioner.

2. Petitioner is the widow of late CPL Naruka Narender Singh who was enrolled in the Air Force in 1972 and he was discharged from service in 1988 and was in receipt of service pension. He was reemployed in United India Insurance Company and during his reemployment he expired on 14.01.2000.

3. Petitioner applied for grant of Family Pension from United India Insurance Company. She was asked to produce No Objection Certificate (NOC) from the Indian Air Force by the Insurance Company vide their letter dated 16.10.2000. Accordingly, petitioner submitted option certificate dated

11.01.2001 to draw "Civil Side Pension" along with Demand Draft No. 004670 dated 06.01.2001 of Bank of India, Jodhpur of an amount of Rs.20,390/- in favour of JCDA(AF), Subroto Park, New Delhi on account of Family Pension drawn from defence side which was subsequently amended in favour of Dy CDA (AF), Subroto Park, New Delhi and resubmitted to JCDA (AF) on 30.06.2001 by the petitioner. Ultimately, NOC dated 04.07.2001 was issued to the petitioner for only grant of Family Pension from Civil Side.

4. It is submitted that later on, law on the subject of Family Pension was amended vide Notification dated 27.07.2001 issued by the Government of India Ministry of Personnel, Public Grievances and Pensions Department of Pension and Pensioners' Welfare. Accordingly, in view of the amendment in CCS (Pension) rules 1972, the United India Insurance Company notified changes in the existing Family Pension Scheme 1995 vide their circular dated 14.05.2010. As per this amendment in law, petitioner became entitled for both the Family Pensions i.e. one under Pension Regulations for Air Force and another under General Insurance Employees' Pension Scheme, 1995. Accordingly, petitioner through his advocate sent a representation cum legal notice dated 20.02.2011 to the respondents for revival of grant of Family Pension, however the same was not revived by the respondents, therefore, she filed the present petition seeking aforesaid relief.

5. A reply has been filed by the respondents and they taken the stand that as per Govt of India Ministry of Defence letter dated 28.09.1992, option once exercised shall be considered as final and petitioner cannot change her option at this belated stage. It is further submitted that as per GOI MoD letter dated 28.08.2001 read in conjunction with GOI P&PW Notification dated

27.07.2001, dual family pension i.e. family pension from Air Force in addition to the Family Pension from the re-employer can be granted only in case the Family Pension from the re-employer is invariably disbursed under Family Pension Scheme 1971 and Employee's Pension Scheme 1995 through Regional Provident Fund Commissioner. It is further pointed out that family pension disbursed by the United India Insurance Company is not covered under Family Pension Scheme 1971 and Employee's Pension Scheme 1995 and not being disbursed through regional provident fund commissioner, therefore, petitioner is not eligible for dual family pension as per policy in vogue.

6. We have heard both the parties and gone through the record. The first and foremost document is notification dated 28.08.2001 issued by the Government of India Ministry of Defence wherein it is stated that *"DP & PW's office Notification dated 27.07.2001 will be applicable mutatis/mutandis to Armed Forces Personnel who were re-employed in the Organisations/Establishments where Employee's Pension Scheme 1995 and Family Pension Scheme 1971 are in force. This will come into force on the date the ibid notification dated 27.07.2001 of DP&PW is published in the Official Gazette, i.e. 27.07.2001. Corresponding regulations of Pension Regulations for Army/Air Force/Navy will be amended accordingly in due course"*.

7. It appears that after receipt of notification dated 27.07.2001, United India Insurance Company realized that employees of the Insurance Company will also be entitled for second Family Pension from the Insurance Company

or from the Armed Forces of Union of India and a circular dated 14.05.2010 was issued by the United India Insurance Company, the relevant paragraph of which reads as under;

*“In view of the amendment in the CCS (Pension) Rules 1972 and in exercise of the authority vested, it is hereby notified that w.e.f 27<sup>th</sup> July, 2001, the family pension under the General Insurance (Employees) Pension Scheme, 1995 shall be allowable to a person even if he is already in receipt of family pension under any other rules of Central/State Government or Public Sector Undertakings/Autonomous Bodies/Local Fund under the Central/State Government or the Armed Forces of Union of India”*

8. This decision of United India Insurance Company seems to have been taken on 14.05.2010. After receipt of this circular of the Insurance Company, petitioner's hopes revived that now she can draw Family Pension from Armed Forces also as per the above notification. Therefore, she agitated the matter by sending representation cum legal notice dated 20.02.2011 through her advocate to the Union of India for revival of her Family Pension. A reply dated 18.03.2011 was received from the Dy. CDA (AF), Subroto Park, New Delhi wherein they showed their inability while responding that they have neither any knowledge of the procedures to be followed for revival of such type of cases nor any case of such nature has been received in this office earlier and they referred the case of the petitioner to the PCDA(P), Allahabad for further clarification.

9. In the reply dated 27.04.2011 sent by Air headquarters Vayu Bhawan, New Delhi to the representation cum legal notice sent on behalf of the petitioner dated 20.02.2011, the claim of petitioner for grant of Family Pension is denied on the ground that as per Govt of India Ministry of Defence letter dated 28.09.1992, option once exercised shall be considered as final and

petitioner cannot change her option at this belated stage. It is further submitted that as per GOI MoD letter dated 28.08.2001 read in conjunction with GOI P&PW Notification dated 27.07.2001, dual family pension i.e. family pension from Air Force in addition to the Family Pension from the re-employer can be granted only in case the Family Pension from the re-employer is invariably disbursed under Family Pension Scheme 1971 and Employee's Pension Scheme 1995 through Regional Provident Fund Commissioner. It is further pointed out that family pension disbursed by the United India Insurance Company is not covered under Family Pension Scheme 1971 and Employee's Pension Scheme 1995 and not being disbursed through regional provident fund commissioner, therefore, petitioner is not eligible for dual family pension as per policy in vogue.

**10.** Be that as it may, we regret to say that approach of the respondents in the present matter is absolutely negative. As per notifications dated 27.07.2001 and 28.08.2001, there is no prohibition to grant dual Family Pension. We have already held in the case of **Smt. Om Bati Versus Union of India & Ors. bearing OA No. 141 of 2010 decided on 29.09.2010** in this regard. So far as the present case is concerned, it is the case in which the widow being the petitioner herein under the bonafide impression as was represented by the Insurance Company that she will not be entitled to receive Family Pension as she is already getting Family Pension from Air Force and she will have to obtain a NOC from the Air Force authorities if she wishes to avail Family Pension from Insurance Company, she boafidely took this exercise and applied for NOC with Air Force. For this, she also deposited a sum of Rs.20,000/- via demand draft with the Air Force authorities and got the

NOC from them. If she had not done so, perhaps she would not have entitled Family Pension from the Insurance Company.

**11.** It is only on 14.05.2010 that Insurance Company agreed that the Family Pension under the General Insurance (Employees) Pension Scheme, 1995 shall be allowable to a person even if he is already in receipt of family pension under any other rules of Central/State Government or Public Sector Undertakings/Autonomous Bodies/Local Fund under the Central/State Government or the Armed Forces of Union of India.

**12.** Therefore, petitioner forwarded her request to the Air Force authorities as the Insurance Company has now agreed to release the dual Family Pension i.e. she can avail Family Pension from Air Force as well as from the United India Insurance Company. Therefore, the request of the petitioner was a valid and genuine request to the Air Force. If she is not entitled to Family Pension from the Insurance Company under Family Pension Scheme 1971 and Employee's Pension Scheme 1995 then it is for the Insurance Company to deal with the matter and Air Force has nothing to do with it. The Insurance Company has agreed with regard to notification of Government of India dated 27.07.2001 whereby the Central Civil Service (Pension) Rules 1972 has been amended and it is said that Family Pension admissible under the Family Pension Scheme 1995 and Family Pension Scheme 1971, shall, however, be allowed in addition to the family pension admissible under these rules. Therefore, it is for the Insurance Company to decide whether she will be entitled to Family Pension under these schemes or not.

**13.** Petitioner did forgo the Family Pension earlier from the Air Force voluntarily to get the Family Pension from the Insurance Company as per rules. Now she is making a request to get the same from Air Force as the law has now been amended then Air Force authorities should not have any objection to it. Therefore, we allow the present petition and direct the respondent, Air Force to restore Family Pension of the petitioner from the date she applied for the same with Air Force i.e. from 20.02.2011 onwards. Respondents shall work out the arrears for the same from the said date i.e. 20.02.2011 and issue a regular Family Pension from the said date onwards.

**14.** In view of above, petition is allowed. No order as to costs.

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

**S.S. DHILLON  
(Member)**

**New Delhi  
April 19, 2012  
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