

COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video-Conferencing)

41.

MA 1824/2020 & MA 1825/2020 in OA 502/2016

Union of India & Ors.

... Applicants

Versus

Smt. Saroj Devi

... Respondent

For Applicants : Shri Prabodh Kumar, Advocate

For Respondent : Shri A.K. Trivedi, Advocate

CORAM :

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

O R D E R
22.01.2021

Arguments heard.

Vide M.A. No. 1824 of 2020, the applicants (who were respondents in the main OA) seek leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007 against the order dated 23.08.2019 passed by the Tribunal, whereby the original applicant (who is respondent in this MA) was granted Liberalised Family Pension and ex-gratia lumpsum amount as applicable on 23.01.2013 to battle casualties who die in harness.

Learned counsel for the applicants (original respondents) submits that the present case does not fall within the Category-E of Government of India, Ministry of Defence letter No. 1(2)/97/I/D(Pen-C) dated 31.01.2001 and reliance has been placed on the judgment passed by Hon'ble Supreme Court

in **Kanchan Dua Vs. Union of India & Anr.** [Civil Appeal Nos. 7459–7460 of 2010].

Counsel for the respondent (original applicant), however, submits that the applicants (original respondents) has not been able to make out any ground for leave to appeal, as after considering the entire rules and regulations, the applicant (respondent in this MA) was granted the benefits and the facts in *Kanchan Dua's case (supra)*, are entirely different from the present case. Furthermore, in *Kanchan Dua's case (supra)*, although the applicant therein was not granted the benefit of Liberalised Family Pension, yet she was granted *ex-gratia* relief. The respondents (applicants in this MA) have not complied with that part of the relief. It is fairly conceded by the counsel for the applicants (original respondents) that in *Kanchan Dua's case*, Hon'ble Supreme Court granted the benefit of *ex-gratia* relief to the applicant therein. However, it is submitted that since the present application for grant of leave to appeal has been filed, therefore, this part of the order was also not complied with.

We have carefully gone through the order passed by the Hon'ble Supreme Court in *Kanchan Dua's case (supra)*. With due respect, the facts therein are entirely different from the present case. After considering the factual matrix of the case appearing in the present OA and as also Government of India, Ministry of Defence letter No. 1(2)/97/I/D(Pen-C) dated 31.01.2001, Para 1 of AO/1/2003 as also taking note of the

Battle Casualty Certificate dated 23.01.2013 of the deceased soldier, the benefits were granted to the applicant.

Under the circumstances, we do not find any substantial question of law much less any point of law of general public importance involved in the present case, which warrants grant of leave to appeal. Therefore, M.A. No. 1824 of 2020 seeking grant of leave to appeal is rejected.

As regards M.A. No. 1825 of 2020 seeking condonation of delay in filing the application for leave to appeal, no sufficient explanation is forthcoming therein. Even if it is considered, the application has no case on merits. Thus, M.A. No. 1825 of 2020 stands dismissed.

[JUSTICE SUNITA GUPTA]
MEMBER (J)

[LT GEN P.M. HARIZ]
MEMBER (A)

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