

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Suppl.

2.

OA 1384/2019 with MA 2123/2019

Smt Suman Jaggi W/o

Late Ex AC 1 Kewal Nain

..... Applicant

VERSUS

Union of India and Ors.

..... Respondents

For Applicant : Mr. Ved Prakash, Advocate

For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
06.12.2023

Vide our detailed order of even date; we have allowed the OA 1384/2019. Learned counsel for the respondents makes an oral prayer for grant of leave to appeal in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007 to assail the order before the Hon'ble Supreme Court. After hearing learned counsel for the respondents and on perusal of our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order to grant leave to appeal. Therefore, prayer for grant of leave to appeal stands declined.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

MA 2123/2019

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of **82** days in filing the present OA. In view of the verdicts of the Hon'ble Supreme Court in the matter of **UoI & Ors Vs. Tarsem Singh 2009(1)AISLJ 371** and in **Ex Sep Chain Singh Vs. Union of India & Ors (Civil Appeal No. 30073/2017)** and the reasons mentioned in the application, the MA 2123/2019 is allowed despite opposition on behalf of the respondents and the delay of **82** days in filing the OA 1384/2019 is thus condoned.

OA 1384/2019

The applicant vide the present OA makes the following prayers:-

“(a) Quash the Impugned Orders No. Air HQ/ 99798/266428/ 32333HD/FP/DAV dated 12.04.2019.

(b) Direct the respondents to grant disability pension to the husband of the applicant duly rounded off to 50% w.e.f his date of discharge till his death and direct the respondents to grant family pension to the applicant thereafter.”

2. Submissions were addressed on behalf of either side on 07.07.2023. In view of the alternative prayers made through the OA, in reply to specific Court Query on 10.10.2023 it was submitted on behalf of the applicant that the prayer made through the present OA is confined to seeking the grant of Invalid Pension alone to the late husband of the applicant with effect from the date of his discharge till his death.

3. The applicant's late Husband Ex AC 1 Kewal Nain No. 266428 was enrolled in the IAF on 02.01.1964 and he was discharged therefrom on 16.04.1968 under the clause "On having been found medically unfit for further service" after rendering a total of 04 years and 46 days of regular service.

4. The applicant has submitted that her late husband expired on 09.02.2019 and submitted further that her late husband Ex AC 1 Kewal Nain whilst in active service suffered with a disability named **“Multiple**

Fracture Effects of (N-819)" and though a Invalid Medical Board was conducted, there was no disability pension granted to the applicant's husband nor was he granted any type of pension. A representation was made by the applicant herein for the grant of family pension through the Zila Sainik Board Faridabad dated 10.04.2019 but the same was rejected by the Dte of Air Veterans dated 12.04.2019 stating that the late husband of the applicant had been found medically unfit for further service and he was not eligible for any kind of pension at the time of discharge.

5. The applicant submits that her late husband joined the Indian Air Force in a fit medical condition and that there was no note of any disability recorded in the service record of the applicant at the time of enrolment and any disability at the time of service has to be deemed to be attributable to or aggravated by military service.

6. Reliance was placed on behalf of the applicant on the verdict of the Hon'ble Supreme Court in *Sukhvinder Singh vs. UOI & Ors.* in Civil Appeal No. 5605/2010 to submit to the effect that any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. On behalf of the applicant it is further been submitted to the effect that in terms of Air Force Pension Regulations 1961, the condition of minimum qualifying

service was waived off with effect from 01.01.1973 and reliance was placed on behalf of the applicant on the Govt of India letter no. 12(28)/2010/D-(Pen-Pol) dated 10.02.2014 to submit to the effect that thereby even if the minimum stipulated qualifying length of service of 10 years or more in the case of ORs and 15 years in case of NCs(E) was not met with effect from 01.01.1973 even if the accepted degree of disability was with an assessment of disablement of less than 20% if the Armed Force Personnel had been invalided out the service element of pension has to be granted and where the Armed Force Personnel died after 01.01.1973, he is entitled to be paid the life time arrears on account of the service element of disability pension accrued in terms of the orders as per the prevailing instructions on the subject.

7. Reliance was also placed on behalf of the applicant on the order dated 06.12.2018 of the AFT, PB, New Delhi in OA 1051/2016 in the case of *Ex Sepoy Bhagat Singh vs. UOI & Ors.* in which case the Armed Force Personnel who had been discharged from service on completion of service of 02 years and 05 days of service and had been invalided out was entitled to the grant of invalid pension. In view of the verdict of the Hon'ble Supreme Court in *UOI & Ors. vs. Ex Gnr Sinchetty Satyanarayan & 42 others* in SLP No. 20868 of 2009 decided on 23.02.2012 wherein it had been observed to the effect :-

"the issue regarding grant of service element to those invalidated out prior to 1973 with less than minimum qualifying service for pension as prescribed from time to time, has been considered in the Ministry and with the approval of Hon'ble RM it has been decided to grant the benefit of "Service Element" to all pre 1973 cases w.e.f. 01.01.1973"

8. Reliance was also placed on behalf of the applicant on the order dated 27.10.2017 of the Hon'ble Supreme Court in ***Ex Rect Mithilesh Kumar vs. UOI & Ors.*** in Civil Appeal Nos. 16438-16440/2017 wherein the appellant thereof was held entitled to the grant of invalid pension in terms of the Regulation 197 of the Pension Regulations for the Army 1961(Part –I).

9. Reliance was also placed on behalf of the applicant on the order dated 14.10.2020 of this Tribunal in OA 1238 of 2016 in the case of ***Smt. Shama Kaur vs. UOI & Ors.*** to contend to the effect that the applicant the widow of the late Armed Force Personnel was entitled to seek the remedy of the grant of the arrears of the invalid pension to the applicant's late husband from the date of invalidment till the date of his demise. In the case of ***Smt Shama Kaur*** (Supra), the issues is before the Larger Bench in OA 1238/2016 were to the effect :-

"(a) Whether there should be condonation of deficiency of service for grant of second pension of DSC service like regular Army personnel in terms of GoI, MoD letter dated 14.08.2001 and Para 44 of Army Pension Regulations or be dealt in terms of GoI MoD letter dated 20.06.2017?"

- (b) *Should the application for condonation of deficiency of service ought to be made by the official during his life time, if not within how much time should it be made?*
- (c) *Can such an application be filed by the widow of the employee, if so, within how much time must it be done?*
- (d) *Does the judgment of Bhani Devi v. Union of India and others- O.A. No. 60 of 2013 dated 07.11.2013 decided by the AFT lay down the correct legal proposition of law?*
- (e) *Can the AFT interfere with policies issued by GoI(MoD) of individual services?"*

and the Issue (c) herein above was disposed of with observations to the effect :-

"(c) Even otherwise, when the grant of family pension based upon the past service of the deceased employee is in controversy, the Hon'ble Courts have held such a right to be unshackled to technical objections. The locus classicus in this regard is the decision of the Hon'ble Supreme Court in S.K Mastan Bee v. General Manager, South Central Railway (2003) 1 SCC 183 wherein the employee had died in the year 1969 while the widow had staked claim to family pension in the year 1991 and the Hon'ble Supreme Court held her entitled to pension without any restriction. A reference can also be made to the decision of the Hon'ble Delhi High Court in Ganga Devi v. Union of India (R.P No. 291 of 2009 in WP(C) No. 7716 of 2009 decided on 23.07.2010) wherein a similar proposition was considered. Pension in any case has been held to be property by the Hon'ble Supreme Court (see Constitution Bench decision in Deokinandan Prasad v. State of Bihar and others (1971) 2 SCC 330 and U.P. Raghavendra Acharya and others v. State of Karnataka and others (2006) 9 SCC 630). Specifically, in the case of condonation of shortfall in deficiency in service in Surender Singh Parmar, the litigant had retired way back in 1985, but still the Hon'ble Supreme Court granted him relief and the said decision also answers this question squarely.

(d) There is another reason for defence personnel, their widows and their families not applying for time or approaching Courts and Tribunals for their benefits, and that is, lack of knowledge about various schemes of the Government and their subsequent interpretation by Courts. To add to the problem, most of the times the decisions rendered by Courts are not implemented by the instrumentalities of the State for all similarly placed employees or pensioners and there is also no way of knowing about the same or even beneficial letters issued by the Government from time to time by the affected parties. Though it may be stated by the Respondents that such policies are now circulated widely on the internet and in various offices but the practical reality of the affected parties not having access to such information or decisions due to the reason of distance, education, age or other disabling factors cannot be lost sight of. In fact, the Hon'ble Rajasthan High Court in Phoola Devi v. Union of India (2007 (2) SCT 700) made very pertinent observations in this regard:

It has often come to the notice of the court that welfare measures taken by the Government 41 for the Ex- Servicemen/their dependents and War Widows etc. do not reach the concerned persons as they live in remote areas and are not even aware about their welfare measures. There must be given wider publicity in local newspapers and Door Darshan Channels in regional languages so that the persons concerned can avail the benefits of these measures. In the instant case, the son of the petitioner went missing in 1986 and could only apply for the benefit of the Scheme Issued in 1992 by the Government of India in 1997 even though there were similar Schemes in operation previously. The respondents are thus, directed to issue regular news updates on these measures commencing March, 2007 on

a monthly basis, as mentioned above, with copies to be made available with the Tehsildars with whom a list of dependents of Ex-Servicemen and Ex-Servicemen should be kept who may avail these benefits...

(e) It is well known that the Hon'ble Courts have held that that the concept of limitation does not apply at all to continuing wrongs and to recurring causes of action such as pension and pay fixation. A "time limit" or the notion of limitation or delay & laches can only be invoked in matters which may affect third party rights in issues such as promotion etc. or one-time causes of action such as a challenge to a dismissal from service, thereby leading to stale claims upsetting settled rights of other parties. Reference in this regard can be made to the decisions of the Hon'ble Supreme Court in Union of India v. Tarsem Singh (2008) 8 SCC 648, MR Gupta v. Union of India (1995) 5 SCC 628, S.R Bhanrale v. Union of India 1996 (10) SCC 172 and Madhukar v. State of Maharashtra (2014) 15 SCC 565, Of course, at times the Courts may mould the relief and there can be no straitjacket formula in that regard, for example, when the relief is not strictly by way of entitlement by existing rules and flows from legal interpretation, then the arrears can be restricted to three years prior to initiation of litigation, an example would be Tarsem Singh (supra), whereas when the entitlement is by way of an existing or vested right or a claim illegally held back then full arrears can be directed to be paid [See Mastaan Bee (supra), Three Judge Bench decision in Civil Appeal 3086/12 Balbir Singh Vs Union of India(C.A No. 3086 of 2012 decided on 08-04-2016) and Giridhar Vs State of Maharashtra (2019) 5 SCC 230]."

10. Reliance was also placed on behalf of the applicant on the order dated 12.05.2022 of this Tribunal in OA 2184/2019 in the case of *Ex ERA III Krishan Chander vs. UOI & Ors.* in which case the applicant who had been

invalided out from the Indian Navy after rendering 08 years of service was held entitled to the grant of the invalid pension.

11. Reliance was also placed on behalf of the applicant on the order dated 07.11.2013 of this Tribunal in OA 60/2013 in the case of **Bhani Devi vs. UOI & Ors.** to contend to the effect that in that case the claim made by the widow of the deceased soldier for the grant of condonation of the shortfall of the service of the late husband of that applicant was allowed thus granting that the applicant's husband was entitled to the relief of pension in the DSC service.

12. It was thus prayed on behalf of the applicant that the prayer made on behalf of the applicant be granted.

13. On behalf of the respondents it was submitted to the effect that all medical documents of the applicant's late husband had already been destroyed but that as per the Long Roll available with the respondents, he was enrolled in the IAF on 02.01.1964, he had been discharged thereof on 16.04.1968 on having been found medically unfit for further service after rendering total 04 years and 46 days of regular service. The respondents have submitted that the applicant has sought redressal before this Tribunal after a long gap of 51 years approximately and there were no service or medical documents qua the applicant's late husband available with the respondents.

14. Reliance was placed on behalf of the respondents on Rule 171 and Rule 172 of the Pension Regulations for the IAF 1961 (Part-I) to contend to the effect that invalid pension is admissible to an individual who fulfills the following criteria :-

- i). Disability either attributable to or aggravated by service
- ii). Degree of disability assessed is not less than 20 percent and which is attributable to or aggravated by service.
- iii). The minimum period of qualifying service required for an invalid pension is 10 years. The respondents further submit that for less than 10 years qualifying service, an invalid gratuity is admissible the respondents thus submitted that the applicant's late husband had rendered less than 10 years of service and was thus not entitled to the grant of the invalid pension.

15. Reliance was in relation thereto placed on behalf of the respondents on the order dated 08.10.2020 of the AFT, PB, New Delhi in OA 209/2016 in the case of *Ex Flt Lt Sanjiv Dewan vs. UOI & Ors.* in which case the applicant thereof had been invalidated out after 09 years and 02 months of service and the applicant thereof was held not entitled to the grant of the disability pension because there was no detailed report available in respect of the cause and nature of injury and it was held that the applicant thereof could not draw an

adverse inference against the respondents to claim his disability as being attributable to or aggravated by military service.

16. Reliance was also placed on behalf of the respondents on the order dated 30.07.2018 of the Hon'ble High Court of Calcutta in the case of *Smriti Chatterjee vs. UOI & Ors.* in which case in as much as the husband of that applicant had not decided to challenge the orders of the respondents it was held to the effect that the applicant, the widow of the late soldier having stepped into the shoes of her late husband was not entitled to challenge an order to which she as a successor in interest was not entitled to do so.

17. It has thus been strenuously contended on behalf of the respondents that the applicant has sought redressal before this Tribunal after a gap of 57 years of invalidment of her late husband from service and there are no valid service nor medical documents available and thus the prayer that has been made seeking the condonation of delay in institution of the OA ought not to be granted.

ANALYSIS

18. At the outset it is essential to observe that the averments made in Para 2 of the counter affidavit dated 06.07.2021 filed on behalf of the respondents are to the effect :-

"2. That as per Long Roll available with answering respondents, the applicant's husband was enrolled in the IAF on 02.01.1964 and he got discharged therefrom on 16.04.1968 under the clause "On having been found medically unfit for further service" after rendering total 04 years and 46 days of regular service. It is further submitted that there is no endorsement with respect to the death of the applicant's husband. However, as mentioned in OA, the applicant's husband died on 09.02.2019."

19. It is thus apparent therefrom that the as per the Long Roll available with the answering respondents, the applicant's husband who had been enrolled in the IAF on 02.01.1964 was discharged therefrom on 16.04.1968, and **had been so discharged on being found medically unfit for further service.** In these circumstances, the averments made by the respondents through their counter affidavit themselves categorically state thus to the effect that the applicant's late husband had been invalided out from service on 16.04.1968. In view thereof, it is apparent that the applicant's late husband having been invalided out on medical grounds, he was entitled to the grant of invalid pension from the date of invalidment till the date of his demise in view of the order of this Tribunal in OA 218/2018 in the case of *Ex Rect Fateh Singh vs. UOI & Ors.* vide order dated 09.10.2023 in which case the applicant thereof who had been invalided out without completion of the

requisite period of actual qualifying service in terms of 198 Rule of the Pension Regulations for the Army 1961 was held entitled to the grant of invalid pension in view of the order of this Tribunal of the AFT(RB), Lucknow in *Ex Recruit Chhote Lal vs. UOI & Ors.* in OA 368/2021 and in view of the order of this Tribunal in *Lt A K Thapa vs. UOI & Ors.* in OA 2240/2019. It is essential to advert to para 17 to 20 of the said verdict of OA 218/2018, wherein it was observed to the effect:-

"17. Lest it be contended that the applicant being invalided out after serving for 11 months and 2 days, however may not be eligible for getting the invalid pension as per Rule 198 of the Pension Regulation for the Army, 1961, which reads as under :

" 198. The minimum period of qualifying service actually rendered and required for grant of invalid pension is 10 years. For less than 10 years actual qualifying service invalid gratuity shall be admissible."

it is apposite to mention the order of the Armed Forces Tribunal (Regional Bench) Lucknow in Ex. Recruit. Chhote Lal Vs. Union Of India & Ors. in OA No.368 of 2021, wherein the MoD letter No. 12(06)/2019/D(Pen-Pol) dated 16.07.2020 has been examined in detail. The said MoD letter is reproduced below:

" Subject: Provision of Invalid Pension to Armed Forces Personnel before completion of 10 years of qualifying service- Reg.

Sir,

1. Government of India, Ministry of Personnel, Public Grievances & pensions, Department of Pension & Pensioners

„Welfare vide their O.M 21/01/2016-P&PW(F) dated 12th February 2019 has provided that a Government servant, who retires from service on account of any bodily or mental infirmity which permanently incapacitates him from the service before completing qualifying service of ten years, may also be granted invalid pension subject to certain conditions. The provisions have been based on Government of India, Gazette Notification No. 21/1/2016- P&PW(F) dated 04.01.2019.

2. The Proposal to extend the provisions of Department of Pension & Pensioners Welfare O.M No. 21/01/2016 -P&OW(F) dated 12.02.2019 to Armed Forces personnel has been under consideration of this Ministry. The undersigned is directed to state that invalid Pension would henceforth also be admissible to Armed Forces Personnel with less than 10 years of qualifying service in cases where personnel are invalided out of service on account of any bodily or mental infirmity which is Neither Attributable to Nor Aggravated by Military Service and which permanently incapacities them from military service as well as civil reemployment.

3. Pension Regulation of the Services will be amended in due course.

4. The provision of this letter shall apply to those Armed Forces Personnel were / are in service on or after 04.01.2019. The Cases in respect of personnel who were invalided out from service before 04.01.2019 will not be re-opened.

5. All other terms and conditions shall remain unchanged.

6. This issues with the concurrence of Finance Division of this Ministry vide their U.O No. 10(08)/2016/FIN/PEN dated 29.06.2020.

7. Hindi version will follow.”

The AFT, Regional Bench, Lucknow Bench while disposing off the OA No. 368 of 2021 has examined Para 4 of the MoD letter dated 16.07.2020 and has held the said Para 4 of the letter as unconstitutional on the grounds that:

“ 20.

letter dated 16.07.2020 fails to meet the aforesaid twin test. The letter arbitrarily denies the benefit of invalid pension to those armed forces personnel, who happened to be invalided out from service prior to 04.01.2020. There cannot be any difference on the ground of invalidment as both in the cases of personnel invalided out before and after 04.01.2020, they faced the similar consequences. In fact, the persons who have retired prior to 04.01.2020 have faced more difficulties as compared to the persons invalided out on or after 04.01.2020. The longer period of suffering cannot be a ground to deny the benefit by way of a policy, which is supposed to be beneficial. Such a provision amounts to adding salt to injury.

21.

22. As per policy letter of Govt of India, Ministry of Def dated 16.07.2020, there is a cut of date for grant of invalid pension. As per para 4 of policy letter, “provision of this letter shall apply to those Armed Forces Personnel who were/ are in service on or after 04.01.2019”. Para 4 of impugned policy letter dated 16.07.2020 is thus liable to be quashed being against principles of natural justice as such discrimination has been held to be ultra

virus by the Hon'ble Apex Court because the introduction of such cut of date fails the test of reasonableness of classification prescribed by the Hon'ble Apex Court viz (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group; and (ii) that differentia must have a rational relation to the objects sought to be achieved by the statute in question".

23. From the foregoing discussions, it may be concluded that the policy pertaining to invalid pension vide letter date 16.07.2020 will be applicable in the case of the applicant also as para 4 of the letter cannot discriminate against the petitioner based on a cut of date.

....."

The Tribunal in reaching such a conclusion with respect to Para 4 of MoD letter No. 12(06)/2019/D(Pen-Pol) dated 16.07.2020 has placed reliance on the verdicts of the Hon'ble Apex Court in the cases of :

- **D.S. Nakara and Others Vs Union of India, (1983), SCC 305 ;**
- **Maneka Gandhi V. Union of India ;**
- **Sriram Krishna Dalmia v. Sri Justice S.R. Tendolkar and Others 1958 AIR 538 1959 SCR 279 ;**
- **Ramana Dayaram Shetty v. The International Airport Authority of India &Ors 1979 AIR 1628 ;**
- **State of Punjab &Anr. V. Iqbal Singh 1991 AIR 1532 1991 SCR (2) 790 ;**
- **Jaila Singh &Anr. V. State of Rajasthan &Ors. 1975 AIR 1436 1975 SCR 428 1976 SCC (1) 602.**

18. To this effect, reliance is also placed on para 27 of the order of **Lt. A.K. Thapa Vs.**

Union of India & Ors. in OA 2240/2019,
Para 27 reads as under :-

“

27. In view of the law laid down by the Hon'ble Supreme Court in **Sukhvinder Singh(Supra)** and in **Balbir Singh(Supra)** on invalidment, the personnel of the Armed Forces who is invalided out is presumed to have been so invalided out with a minimum of twenty percent disability which in terms of the verdict in **Sukhvinder Singh(Supra)** is to be broadbanded to 50% for life, the incorporation by the respondents vide the MoD letter dated 16.07.2020 of a term of **a necessary permanent incapacity for civil re-employment**, is an apparent overreach on the verdict of the Hon'ble Supreme Court in **Sukhvinder Singh(Supra)**. Furthermore, the said clause of a requirement of an Armed Forces Personnel to be permanently incapacitated from Military service as well as Civil re-employment is wholly vague and arbitrary and does not take into account the extent of incapacity for Civil re-employment. This is so for the personnel of the Armed Forces who is invalided out with all limbs incapacitated may still have a functional brain and functional voice, may be able to speak, sing, paint and earn a livelihood. The utilisation of the words 'permanently incapacitates from civil re-employment', apparently requires a permanent brain dead armed forces personnel. We thus hold that the requirement of the Armed Forces Personnel **'to be permanently incapacitated from civilian employment as well'** (apart from permanent incapacitation from military service) for the grant of invalid pension in terms of the MoD letter No. 12(06)/2019 /D (Pen/Pol) dated 16.07.2020 to be wholly arbitrary and unconstitutional and violative of Article 14 of the Constitution of

India which is in Part-III of the Fundamental Rights with the sub heading thereto of '**Right to Equality**', and lays down to the effect:-

"14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 21 of the Constitution of India lays down to the effect:-

"21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law."

Article 21 protects the **Right to Livelihood** as an integral facet of the **Right to life** as laid down by the Hon'ble Supreme Court in **Narender Kumar Chandla Vs. State of Haryana**, 1995 AIR 519 and the right to life is one of the basic human rights which even the State has no authority to violate, except according to procedure established by law.

...."

19. We find no reason to differ from the law laid down in **Chhote Lal (supra)** and in **A.K. Thapa (supra)**, we are therefore of the considered view that the applicant has to be deemed to be invalided out of service on account of the said disability as the applicant rendered 11 months and 2 days of service and was invalided out before completing his term of initial engagement. Therefore, the applicant is held entitled to invalid pension, despite the fact that he had not completed the qualifying length of service of ten years.

20. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of receipt of copy of this order and the amount of arrears shall be paid by the respondents, failing which the applicant

*will be entitled for interest @6% p.a. from the date of receipt of copy of the order by the respondents. However, as the applicant has approached the Tribunal after a considerable delay, in view of the law laid down in **Union of India & Ors. Vs. Tarsem Singh 2009 (1) AISLJ 371**, arrears of invalid pension will be restricted to three years prior to the date of filing of O.A. 218/2018."*

20. In these circumstances of the instant case as it is apparent that the applicant's late husband had been invalided out from service in terms of the Govt of India letter no. 12(28)/2010/D-(Pen-Pol) dated 10.02.2014, the applicant's late husband was entitled to the grant of invalid pension, even though he had not made a prayer for the same during his life time, in view of the verdict of this Tribunal in the case of **Smt Shama Kaur** (Supra) in the Larger Bench in OA 1238/2016 and in the case of Hon'ble Supreme Court in **S K Mastan Bee vs. The General Manager, South Central Railway & Anr.** in Civil Appeal No. 8089/2002.

21. Thus the prayer made by the applicant seeking the grant of the arrears of the invalid pension from the date of the applicant's late husband invalidment till the date of his demise on 09.02.2019 is allowed.

22. The respondents are directed to calculate, sanction and issue the necessary Corrigendum PPO to the applicant within three months from the

date of receipt of the copy of this order and in the event of default, the applicant shall be entitled to the interest @6% per annum on the arrears due from the date of this order.

Pronounced in the Open Court on ⁶.....the day of December, 2023.

[REAR ADMIRAL ~~DHIREN VIG~~]
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

/yogita/