

**COURT NO. 2**  
**ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**OA 1595/2020**

**Smt. Maya Devi**

**W/o Late NC(E) Moti Lal Sharma**

**... Applicant**

versus

**Union of India & Ors.**

**... Respondents**

**For Applicant** : Mr. Durgesh Kumar Sharma, Advocate

**For Respondents** : Mr. Prabodh Kumar, Advocate-on-Record

**CORAM:**

**HON'BLE JUSTICE ANU MALHOTRA, MEMBER (J)**

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

**ORDER**

The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant, vide Para 8, has sought the following reliefs: -

*(a) Quash and set aside the impugned letter dated 22 Sep 2020.*

*(b) To grant Special Family Pension by declaring death of husband of applicant attributable to military service for life with effect from 14.10.2006 i.e., the date of death of husband of applicant on active service with interest @ 12% p.a. till final payment is made.*

*(c) To Grant Rs. 10 lacs as an Ex-Gratia amount to applicant with interest @ 12% p.a. till final payment is made.*

*(d) Direct the respondents to pay Rs. 50,000/- towards mental harassment and agony caused to applicant by respondents and also direct the respondents to Pay Rs. 50,000/- for litigation cost.*

*(e) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.*

### **BRIEF FACTS**

2. The applicant's husband was enrolled in the Indian Air Force on 12.12.1986 and he died on 13.10.2006. As per Post-Mortem report No. 1166/06 dated 14.10.2006, the death of the applicant occurred due to **Acute Coronary Insufficiency**. The death of the NC(E) was declared as Neither Attributable to Nor Aggravated by the competent authority. The applicant being his Next of Kin (NOK) was granted all terminal benefits including the DCRG and Ordinary Family Pension w.e.f. 14.10.2006 vide PPO No. 08/14/B/F/P/0151/2008. The applicant's claim dated 04.09.2020 for grant of Special Family Pension was rejected vide the impugned letter dated 22.09.2020 No. AIR HQ/99798/3/818687/Doc/FPDAV stating to the effect: -

1. ...
2. ...
3. ...
4. ...

*5. In the instant case, NC(E) Moti Lal Sharma expired on 13.10.2006 because of 'Shock due to Coronary insufficiency' and was not in performance of any bona fide Air Force duties and the cause of death does not fall in the above-mentioned categories. Based on the fatal documents, the competent authority had considered the cause of death as neither attributable to nor aggravated by military service. Hence, Smt.*

*Maya Devi (Wife) is not eligible for Special Family Pension and hence she has been granted DCGR and Ordinary Family Pension w.e.f. 14.10.2006 vide PPO No. 08/14/B/F/P/0151/2008.*  
6. ... ”

3. Aggrieved by the said decision of the respondents, the applicant has filed the instant OA. In the interest of justice, we take up the present OA.

### CONTENTIONS OF THE PARTIES

4. The learned counsel for the applicant submitted that the husband of the applicant was enrolled in the Indian Air Force on 12.12.1986, having been declared medically fit after comprehensive evaluations. It was further submitted that the deceased soldier's service spanned 19 years and 306 days, during which he participated in critical operations, including the Kargil War, while consistently working excessive hours in extreme conditions that adversely affected his health.

5. The learned counsel for the applicant submitted that on 13.10.2006, the deceased soldier reported chest pain while on duty but did not receive adequate medical care, leading to his death from shock due to coronary insufficiency. The learned counsel further submitted that despite his dedicated service and commitment to duty until the day of his demise, the respondents denied that his death was attributable to military service.

6. It was submitted on behalf of the applicant that the respondents subsequently refused to grant the applicant a Special Family Pension and ex gratia compensation, citing that the husband's death was not linked to his military service, despite the extensive evidence of the stress and strain he endured throughout his career.

7. The learned counsel for the applicant submitted that despite representations and a legal notice asserting the connection between her husband's death and his military service, the applicant's claims were persistently denied by the respondents, thereby depriving her of her rightful entitlements as the spouse of an armed force personnel who expired whilst in active service.

8. It was submitted on behalf of the applicant that the grounds cited by the respondents in rejecting the claim for Special Family Pension contradict the established legal principles articulated by this Hon'ble Tribunal in the order dated 30.10.2015 in OA No. 399/2015, *Smt. Ratna Yadav Vs UOI & Ors.* wherein the Tribunal considered a similar claim from the widow of an Air Force personnel who died from Cardiac Pulmonary Arrest/Acute Myocardial Infarction while on active duty and granted him Special Family Pension. Reliance was inter alia placed on behalf of the applicant on the verdict of the Hon'ble Supreme Court in *Dharamvir Singh Vs. Union of India & Ors* (Civil Appeal No. 4949/2013) to contend to the

effect that the death of the applicant's late husband has to be held to be attributable to military service.

9. *Per contra*, the learned counsel for the respondents submitted that NC (E) Moti Lal was enrolled in the IAF on 12.12.1986 after undergoing the requisite medical examinations. The learned counsel for the respondents submitted that the cause of death of NC(E) Motilal was shock due to coronary insufficiency and was determined not to be attributable to military service and according to the Government of India, Ministry of Defence (MoD) letter No. 1(1)/81/D/(PEN-C) dated 20.06.1996, a disease must arise during military service and be caused by the conditions of that service for it to be deemed attributable, neither of which were established in this case.

10. The learned counsel for the respondents submitted that based on the assessments of the medical documentation and the circumstances surrounding NC (E) Moti Lal's service, the competent authority concluded that his duties did not contribute to the onset or exacerbation of his coronary condition. The learned counsel added that as outlined in Para 189 of the Pension Regulations for Air Force 1961 Part-I, Special Family Pension may be granted only if the death was due to or hastened by a wound, injury, or disease attributable to Air Force service, which was not applicable in this instance.

11. The learned counsel for the respondents submitted that in response to the legal notice dated 04.09.2020 regarding the claim for Special Family Pension and ex gratia compensation, the authorities hence issued a detailed reply on 22.09.2020, confirming that the applicant was entitled only to an Ordinary Family Pension and the regulations governing entitlement to casualty pensionary awards mandated a clear causal connection between the death and military service, which was not established, thereby justifying the denial of the Special Family Pension and ex gratia compensation. The respondents thus prayed the OA be dismissed.

#### ANALYSIS

12. After hearing both sides and perusing the evidence on record, the questions which need to be answered are two-fold: -

*(a) Whether death of the husband of the applicant was attributable to and aggravated by military service?*

*(b) If yes, is the applicant entitled for ex-gratia lump sum compensation and Special Family Pension?*

13. The husband of the applicant died due to “**Shock due to acute coronary insufficiency**” on 13.10.2006 as brought forth through the post-mortem report placed on record. The respondents have accepted the fact that the applicant was on

duty from 0715 hours till 1430 hours on 13.10.2006 (on the day of his demise) as provided in the charter of duties filed on 22.12.2023 and that he was sent for special sick report on complaint of nausea and gastritis.

14. It is also pertinent to note that the respondents have conducted a Court of Inquiry (COI) dated 14.10.2006 to investigate the circumstances of the death and attributability of the death which states that NC(E) Moti Lal Sharma had performed his duty on the day when he died and that his death is attributable to the Air Force service. Thereafter, an additional COI was conducted to deliberate upon the attributability aspect and make necessary amendments in the findings and recommendations of the original COI and accordingly, the additional COI dated 02.03.2007 recommended that the death of NC(E) Moti Lal Sharma is not attributable to the Air Force service. The additional COI amended the attributability aspect of the cause of death of NC(E) Moti Lal Sharma on the basis of following findings:

**Attributability** – *The following has emerged after deliberations by court and scrutiny of above said documents: -*

*“(a) The stress factor due to duties was normal on late NC(E) Motilal Lascar. (Exhibit-C)*

*“(b) The cause of death stated in the post-mortem report is “Died due to shock following acute coronary insufficiency”. This is a natural cause of death and has no causal relations with service.*

*(c) Post-mortem report reveals coronary artery disease which is a constitutional disease not related to service.*

*(d) the court of inquiry finds that the death of 818687-A NC(E) Motilal Lascar is not attributable to Air Force service.”*

The respondents in their additional COI have primarily provided two causes in denying the attributability aspect, first, that the stress of duty on NC(E) Motilal Lascar was normal and second, that the cause of death is natural i.e., constitutional in nature which has no causal connection with the service.

15. **With respect to the first cause**, it is essential to advert to the charter of duties submitted by the respondents. The 14 days charter of duties prior to occurrence of death of the applicant reveals that he was employed on trade duties. The ‘trade’ duties as brought out in Annexure R-2 in their affidavit dated 22.12.2023 in-detail provides for the area of responsibility of the applicant’s husband which, *inter alia*, includes loading/unloading duties at station/railway wagon/ASC supply point and weight/issue of ration at ration stand. The charter of duties as submitted by the respondents also reveals that Lascar Trade as NC(E) involves labour intensive work including multi-tasking jobs with a long list of duties that may be assigned to a Lascar Trade NC(E). The charter also provides that Lascar Trade NC(E) is also responsible for any other duty assigned by his superior which clearly makes the list as provided in the charter a non-exhaustive labour-intensive duty without putting

any kind of restrictions on the work that maybe assigned to a Lascar Trade NC(E). Therefore, when ascribing the non-attributability in the additional COI, the Commanding Officer has perfunctorily mentioned that there was no exceptional mental, emotional or physical strain of service and the same cannot be accepted.

16. It also needs to be borne in mind that when a person has died due to cardiac arrest, it is not the stress and strain of the last 14 days prior to the death which needs to be seen but it is important to also take into account that the applicant's husband was in the IAF for 19 years in the same trade and the accumulated stress and strain of such a long service being the cause of his death due to cardiac arrest and therefore, its attributability to military service cannot be overlooked.

17. In order to assess the attributability of the cause of death of the husband of the applicant, it is essential to advert to Para 47 of the GMO (MP) 2002, which reads as under: -

*"47. Ischaemic Heart Disease (IHD) IHD is a constitutional disease. It is almost always due to occlusive thrombus at the site of rupture of an atheromatous plaque in the coronary artery. Prolonged stress and strain hasten atherosclerosis by triggering of neurohormonal mechanism and autonomic storms. It is now well established that autonomic nervous system disturbances precipitated by emotions, stress and strain, through the agency of catecholamines affect the lipid response, blood pressure, increased platelet aggregation, heartrate and produce ECG abnormality and arrhythmias. Therefore, where exceptional and prolonged stress and strain of service can reasonably be established, aggravation can be conceded. On*

*the other hand, acute and severe mental and physical stress of very short duration may precipitate acute cardiovascular catastrophe by suddenly creating marked reduction of blood supply relative to its demand and favours coronary spasm, resulting in ischaemia. Therefore, intimate causal relationship must be accepted and attributability can be conceded. The service in field and high-altitude areas apart from physical hardship imposes considerable mental stress of solitude and separation from family leaving the individual tense and anxious as quite often separation entails running of separate establishment, financial crisis, disturbance of child education and lack of security for family. Apart from this, compulsory group living restricts his freedom of activity. These factors jointly and severally can become a chronic source of mental stress and strain precipitating an attack of IHD.*

*Severe regimentation in the day-to-day service life, working to deadlines, prolonged hours of uncongenial duties are inherent in the working of services. In addition, severe mental trauma associated with operations of high-pressure planning and similar other duties in three services, severe physical stress and strain of field service and active operational areas, stresses of multitude of duties and responsibility must be given consideration while establishing causal relation between acute cardiovascular catastrophe and service.*

*The magnitude of physical activity and emotional stress is no less in peace area. Tough work schedules and mounting pressure of work during peace time compounded by pressure of duties, maintenance of law and order, fighting counter insurgency and low intensity war in deceptively peaceful areas and aid to civilians in the event of natural calamities have increased the stress and strain of service manifold. Hence no clear-cut distinction can be drawn between service in peace areas and field areas taking into account quantum of work, mental stress and responsibility involved. In such cases, aggravation due to service should be examined in favour of the individual.*

*It is concluded that a myocardial infarction may be attributable to or aggravated by service or unrelated to service factors as follows: -*

*(a) Attributability will be conceded where: A myocardial infarction arises during service in close time relationship to a service compulsion involving severe trauma or exceptional mental, emotional or physical strain, provided that the interval between the incident and the development of symptoms is approximately 24 to 48 hours. Attributability will be conceded in cases related to activities like high pressure planning for/in operation or extreme physical strain, but not in cases of stress and strain in office or extra/work duties which are matters of normal official life. Attributability can also be conceded when the underlying disease is either embolus or thrombus arising out of trauma in case of boxers and surgery, infectious diseases. e.g., SBE, vaccinia, exposure to HAA, extreme heat. However, IHD occurring in a setting of hypertension, diabetes and vasculitis, entitlement can be judged on its own merits.*

xxx....”

It is also important to note that merely an individual who is in SHAPE-1 category simply died of a natural cause does not bring forth the complete reality in its true sense. Considering the area of responsibilities and long list of duties that may be assigned to a soldier in Lascar Trade NC(E), it is natural that the applicant's husband had severe stress and strain of the military service in the 19 years of his service in the IAF that may eventually lead to severe trauma or exceptional mental, emotional or physical strain on him. In fact, 24 to 48 hours prior to the death of the applicant's husband and from 09.10.2006 to 13.10.2006 from 0715 to 1430 hours every day, the deceased soldier was on 'trade' duties which are labour intensive as brought out

herein above. The cause of death of the applicant's husband i.e., **Shock due to acute coronary insufficiency**, can therefore be considered to be due to service conditions involving severe trauma or exceptional mental, emotional or physical strain resulting in the incident and the development of symptoms in approximately 24 to 48 hours. There is also nothing on the medical record to show that the applicant's husband had any congenital constitutional heart disease. In view of the aforesaid and the accumulated stress and strain of long service of 19 years on the deceased soldier, the death of the husband of the applicant has to be held to be attributable to the Air Force service.

18. Since the death of the husband of the applicant has been held as attributable to the Air Force service considering the apparent causal connection, the applicant is entitled to the benefit of Special Family Pension in terms of Sub-para 5.1, Para 5, Part-III of the GOI-MoD letter No. 1(2)/97/D(Pen-C), dated 31.01.2001.

19. Qua the *ex-gratia lump sum compensation* to the applicant, the policy with regard to the *ex-gratia* compensation which is applicable to the applicant is vide *GOI-MoD letter No. 20(1)/98/D(Pay/Services) dated 21.10.2008* letter which takes effect from 01<sup>st</sup> January 2006, as per para 2 thereof provides for the following circumstances for the award of *ex-gratia lump sum compensation*: -

(a)	Death occurring due to accidents in course of performance of duties	Rs. 10.00 Lakhs
(b)	Death in the course of duties attributable to acts of violence by terrorists, etc.	Rs. 10.00 Lakhs
(c)	Death occurring during enemy action in war or border skirmishes or in action against militants, terrorists, etc.	Rs. 15.00 Lakhs
(d)	Death occurring during enemy action in international war or war like engagements specifically notified.	Rs. 20.00 Lakhs

The documents placed on record by the respondents do not reveal the occurrence of any accident in the course of performance of the duties of the applicant leading to the death of the applicant. Therefore, keeping in view the aforesaid, the applicant's claim for the ex-gratia lump sum compensation stands rejected as there are no like circumstances as provided by the policy on the matter of ex-gratia cited above.

### CONCLUSION

20. The OA 1595/2020 is thus partially allowed and the applicant is held entitled to the benefit of Special Family Pension only from the next date of demise of her husband on 13.10.2006, i.e., w.e.f. 14.10.2006.

21. The respondents are thus directed to grant Special Family Pension to the applicant w.e.f. 14.10.2006, i.e., the next day of death of her husband, after making



adjustment of the amount already paid against the Ordinary Family Pension to the applicant.

22. Accordingly, the respondents are directed to calculate, sanction and issue necessary corrigendum PPO to the applicant within three months from the date of receipt of copy of this order and the amount of arrears, if any, shall be paid by the respondents, failing which the applicant shall be entitled to the interest @ 6% per annum till the date of actual payment.

23. There is no order as to costs.

Pronounced in the open Court on this 12 day of December, 2024.

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

[JUSTICE ANU MALHOTRA]  
MEMBER (J)

/PRGx/