

**COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 960/2018 WITH MA 860/2018

Smt Jai Devi Wd/o ... **Applicant**
Late Ex Sep Rajbir Singh
Versus
Union of India and Ors. ... **Respondents**

For Applicant : Mr. Praveen Kumar, Advocate
For Respondents : Mr. Arvind Patel, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, and aggrieved by the non-grant of the Liberalised Family Pension, the applicant, widow of Late Ex Sep Rajbir Singh¹ has approached this Tribunal seeking grant of the Liberalised Family Pension.

2. The deceased soldier was enrolled in the Indian Army on 28.02.1963. The facts not under dispute by the Respondents specify that the deceased soldier was wounded in action on 06.12.1971 in Op Cactus Lily, and after rendering 10 years 7 months and 13 days of service, he was

¹ Hereinafter referred to as "Deceased Soldier"

discharged at his own request on 11.10.1973, and subsequently, passed away on 24.12.2006.

3. A legal notice dated 29.01.2018 was served by the counsel for the applicant for grant of Special/Liberalized Family Pension, wherein it was replied by the Records, the JAT Regiment vide letter no 3150080/FP/NA/JR dated 27.02.2018 that since the deceased soldier was discharged at his own request under Army Rule 13(3) III(iv) of the Army Rules, 1954 before completion of mandatory pensionable service was not granted any type of pension, the widow of the soldier is not eligible for any type of family pension.

4. It is the case of the applicant that the applicant has not been granted any type of Family Pension whereas she is entitled to receive 'Liberalized Family Pension', since the injury of the applicant's husband falls under Category 'E' as enshrined in Para 4(i) of the Govt. of India Policy vide Notification bearing no. 1(2)/97/D(Pen-C) dated 31.01.2001.

5. Per Contra, respondents submit to the effect that the sheet roll along with complete service and medical documents available in dossier cover in respect of the

deceased soldier has been destroyed and the available information is only limited to the Long Roll and therefore, the Respondents are not in a position to ascertain that the husband of the applicant was in low medical category or not at the time of discharge from service.

6. We have heard the contending parties and perused the pleadings and additional documents submitted by the respondents and the case laws on the subject. Now, the moot issue that needs to be interpreted in the present case is whether the applicant is entitled for grant of 'Liberalised Family Pension' or not ?

7. It is undisputed that the complete service and medical documents available in dossier cover in respect of the deceased soldier have been destroyed. The only medical document placed on record is the copy of the Categorization Board dated 14.07.1972 wherein we find that as per the opinion of the Surgical Specialist, there is no bony injury, whereas the old scar is nicely healed. It is further recorded that the movements in the hips are also full.

8. We further find that while the disability was held to be attributable to service, and he has been directed to be placed in 'CEE' medical category there's no percentage of the

disability that has been recorded. Similarly, in absence of the Release Medical Board or any other medical document showing the disability of the deceased soldier at the time of discharge to the effect, it is not possible to ascertain the fact whether the deceased soldier was in low medical category or was still suffering from the disability.

9. Noting the aforesaid, we find it appropriate to observe that this claim was never preferred during the lifetime of the deceased soldier, while the total delay in filing this claim is almost 44 years, which is sufficient to make any claim stale in nature. While this Tribunal recognises that the grant of pension is a continuous cause of action, the same could not be applied wherein there is no evidence on record to suggest that the applicant is in fact entitled to grant of 'Liberalised Family Pension'.

10. In view of the aforesaid analysis, and the facts and circumstances of the case, we frame our opinion based on interpretation of the material placed on record, and therefore, we are of considered opinion that the prayer of the applicant to grant Liberalized Family Pension cannot be acceded to, in view of the sufficient evidence not on record to support her claim.

11. Consequently, the OA 960/2018 is dismissed.
12. Pending application(s), if any, also stands disposed of.
13. No order as to costs.

Pronounced in the open Court on th 5 day of December, 2024

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

(LT GEN C.P MOHANTY)
MEMBER (A)

/Akc/