

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

**OA 375/2020**

**Smt Neelam Singh Wife of Late  
Flt Lt Yoginder Kumar Mehta** ..... **Applicant**  
**VERSUS**  
**Union of India and Ors.** ..... **Respondents**

**For Applicant** : Mr. Ajai Bhalla, Advocate  
**For Respondents** : Dr. Vijendra Singh Mahndiyan,  
Advocate for R 1-2 and  
Mr. Anil Gautam, Sr. CGSC for R 3-4

**CORAM**

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)**  
**HON'BLE LT GEN CP MOHANTY, MEMBER (A)**

**ORDER**

The applicant Smt. Neelam Singh, the erstwhile the widow of Late Flt Lt Yoginder Kumar Mehta(9813) F(P) who was commissioned in the Indian Air Force on 16.10.1965 but died in a flying accident on 03.05.1975 whilst on deputation to ARC vide the present OA makes the following prayers:-

***“(a) Order Respondents to restore the  
Special Family Pension to the applicant  
w.e.f. 20.01.2009.***

**(b) Order Respondents to grant the benefit OROP with effect from 01 July 2014 special family pension.**

**(c) Order release of arrears of Special Family pension w.e.f. 20.01.2009 and arrears of OROP w.e.f. 01 July 2014.**

**(d) Any other suitable relief as may be deemed fit and proper in the circumstance of the case and in the interest of justice.”**

2. The applicant on the demise of Late Flt Lt Y.K. Mehta was sanctioned extraordinary family pension in accordance with relevant provisions of the Central Civil Service (Extraordinary Pension) Rules, applicable at that time, w.e.f 04.05.1975(till her death or re-marriage, whichever occurs earlier) along with other pensionary benefits, authorized vide DACS letter no. ITC/PN-156/5150-54 dated 09.03.1976. The applicant subsequently got remarried on 12.09.1981 and the grant of extraordinary pension to her was discontinued. The applicant submits that in terms of letter no. 1(1)/2001/D(Pen/Policy) dated 20.01.2009, issued by the Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, widows whose special family pension

was stopped on their remarriage before 01.01.1996, from the date of issuance of the said letter i.e. 20.01.2009 have been allowed the actual benefit of grant of special family pension which had been stopped on re-marriage and thus she has sought the grant of special family pension wef from the date of the said letter no. 1(1)/2001/D(Pen/Policy) dated 20.01.2009 as issued by the Government of India, MoD, Department of Ex-serviceman welfare and has also sought the consequential OROP benefits wef 01.07.2014 qua the Special Family Pension and also sought release of arrears of Special Family pension wef 20.01.2009 and arrears of OROP wef 01.07.2014.

3. Reliance in this regard has been placed on behalf of the applicant on the order dated 27.10.2017 of the AFT(RB), Chennai in the case of **Mrs. Chitra Rangachari vs. UOI & Ors.** in OA 15/2016 and on the order dated 01.07.2019 of the AFT(PB) in OA 673/2016 in the case of **Smt. Neelam Malik vs. UOI & Ors.** to submit to the effect that she is similarly placed as the applicants of the said two OAs and is

thus entitled to grant of Special Family Pension as applicable to a widow of a similarly placed Air Force officer as well as to the arrears of the Special Family Pension after deduction of payments made already under the extraordinary family pension scheme for the said period along with the grant of OROP arrears. Reliance was also placed on behalf of the applicant on the grant of Special Family pension to Mrs. Serena Gupta w/o Late Flt Lt Chandan Gupta(Now Serena Christine New Bolt) whose husband died in an Air Craft accident on 18.11.1976 on duty as a Test Pilot, who was sanctioned Special Family Pension which was stopped on her marriage to Mr. Bolt on 16.09.1977 but was restored on issuance of policy letter no. 1(1)/2001/D(Pen/Policy) dated 20.01.2009 w.e.f 21.01.2009, in view of the Government of India, Ministry of Defence letter dated 20.01.2019.

4. The respondents arrayed to the present petition are as follows:-

***“(i) Union of India through Secretary,  
Ministry of Defence, South Block, New  
Delhi-110011***

**(ii) Air Cmde, Directorate of Air Veterans,  
SMS Building, 1<sup>st</sup> Floor, Subroto Park,  
New Delhi-110010**

**(iii) The Director(Pers), Aviation Research  
Centre(ARC), Cabinet Secretariat, East  
Block-V, R.K. Puram, New Delhi-110066**

**(iv) The Director of Accounts, Cabinet  
Secretariat, East Block IX, Level 7, New  
D”**

5. On behalf of the respondent nos. 3 and 4, it is submitted to the effect that in terms of Rule 12(2) of the CCS (Extra Ordinary Pension) Rules, 1939, the applicant on remarriage is not entitled to the grant of any Family Pension. Rule-12 inclusive of Rule 12(2)(i) of the CCS (Extra Ordinary Pension) Rules, 1939 reads to the effect:-

**“12.(1) A family pension will take effect from the day following the death of the Government servant or from such other date as the President may decide.**

**Rule 12 (2) (i): A family pension will ordinarily be tenable in the case of a widow or mother until death or re-marriage, whichever occurs earlier;**

**(ii) in the case of minor son, or minor brother, until he attains the age of twenty one;**

**(iii) in the case of an unmarried daughter or minor sister, until marriage or until she**

**attains the age of twenty four, whichever occurs earlier;  
(iv) in the case of a father life.**

Further Rule 12-A provides:

***Family pension in case of remarriage of widow:***

***“Notwithstanding anything contained in clause (i) of sub- rule (2) of Rule 12, a widow of an employee who re-marries her deceased husband's brother and continues to live a communal life with, or contributes to the support of the other dependents of the deceased shall not be disqualified for the grant of extraordinary pension, otherwise admissible to her under these rules.”***

6. The applicant further submits to the effect that as per the Pension Regulations for the Air Force, 1961, an individual loaned for civil Govt employment irrespective of whether he is on civil or Air Force rates of pay is to be governed by the civil extra-ordinary pension rules for the purpose of an extra-ordinary pensionary award in respect of injuries received or death met during such employment but the benefits admissible for the purpose of similar awards under the Air Force Regulations will be allowed in relaxation of the provisions of the civil extra-ordinary pension rules, if these

benefits are more advantageous than those admissible under the civil rules.

7. The respondent nos. 3 and 4 through their Counter affidavit dated 30.12.2020 have submitted to the effect that the applicant's husband Late Flt Lt Yoginder Kumar Mehta was on deputation in the ARC from the IAF and that the ARC is a civil organization of the Government of India and that the Civil/ARC employees are governed by the set of rules applicable to Central Government civil servants.

8. The respondent nos. 3 and 4 further submit that on the demise of Flt Lt Yoginder Kumar Mehta on 03.05.1975 in a plane crash, the applicant was sanctioned Extraordinary Family Pension in accordance with the relevant provisions applicable at that time i.e. the CCS (Extra Ordinary Pension) Rules, 1939 with effect from 04.05.1975 till her death or remarriage whichever occurred earlier along with other pensionary benefits comprised vide DACS letter no. ITC/PN-156/5150-54 dated 09.03.1976 and further submit to the effect that the matter thus relates to the grant of family

pension and lies with Central Administrative Tribunal being the case of a family pensioner of a civil employee.

9. Vide their short affidavit dated 02.04.2024, the respondent nos. 3 and 4 have submitted that the representation of the applicant for change of option to opt for pension under the Air Force Rules was considered by the Ministry of Defence and it had been opined on 29.01.2016 to the effect:-

***“2. The above proposal was referred to Ministry of Defence for their consideration. They have stated that there is no provision for change option available to the families to opt for family pension from parent or borrowing department under relevant rules. Hence, the option once exercised is final and cannot be changed at later stage. In this regard, copies of note recorded by MoD and CGDA on pages 12-17/N of this Secretariat's file No. 15/7/2015-DO.II(B) are enclosed for information please.”***

10. The respondent nos. 3 and 4 have also placed on record the copy of the CCS (Extra Ordinary Pension) Rules, 1939 as amended and in addition to Rule 12(2) already

adverted to hereinabove in Para-5 have adverted to Rule 12(A) thereof which reads to the effect:-

**“12-A. Notwithstanding anything contained in Clause (i) of sub-rule (2) of Rule 12, a widow of an employee who remarries her deceased husband's brother and continues to live a communal life with, or contributes to the support of the other dependants of the deceased shall not be disqualified for the grant of extraordinary pension, otherwise admissible to her under these rules.”,**

to submit to the effect that the applicant does not fall within the ambit of Rule-12(2)(i) nor Rule-12A of the CCS (Extra Ordinary Pension) Rules, 1939 as amended for the grant of family pension.

11. The respondent nos. 3 and 4 have further submitted that vide Annexure RA-5 attached to their short affidavit dated 02.04.2024, is a letter no. ARC/Pers.III /Misc /2014 (Vol.I) dated 24.09.2019 whereby the Deputy Director (Pers) of the Aviation Research Centre had written to the Deputy Director(AV Officers-FP), Department of Air Veterans, Air HQ to the respondent no. 2 herein to examine the request of the

applicant in terms of the judgment of the AFT(RB), Chennai in the case of ***Mrs. Chitra Rangachari vs. UOI & Ors.*** in OA 15/2016, who was granted the family pension in terms of the Air Force Rules including the OROP benefits in terms of the order of the AFT and who has since been sanctioned the Special Family Pension wef 01.05.2013 as per Court order vide O/o JT. CDA(AF),PPO no. 08/14/A/ Family/SFP/0007/2018.

12. It was submitted by the Ld. Sr. CGSC for respondent nos. 3 and 4 that the applicant is not entitled to the grant of Extraordinary Family pension and that the applicant cannot be granted any Special Pension by the respondent nos. 3 and 4, the grant of which would only fall within the domain of respondent nos. 1 and 2.

13. On behalf of the respondent nos. 1 and 2, it is sought be submitted that in as much as the applicant's late husband was on deputation with the ARC from the Indian Air Force and had expired during the said period of time, the applicant's late husband was not in receipt of any pension at

the time of his demise from the respondent nos. 1 and 2 and thus consequently the applicant is not entitled to grant of Special Family Pension also.

14. Inter alia, the respondent nos. 1 and 2 have submitted to the effect that the facts of the cases in the orders in **Smt. Chitra Rangachari**(Supra) and **Smt. Neelam Malik**(Supra) relate to those cases alone and are not applicable *in rem*.

15. Significantly, in reply to a specific Court query, learned counsel for the respondent nos. 1 and 2 did not refute the aspect that the order dated 27.10.2017 of the AFT(RB), Chennai in the case of **Mrs. Chitra Rangachari vs. UOI & Ors.** in OA 15/2016 and the order dated 01.07.2019 of the AFT(PB) in OA 673/2016 in the case of **Smt. Neelam Malik vs. UOI & Ors.** have not been assailed and had rather been implemented.

16. On a consideration of the submissions that have been made on behalf of either side, it is apparent that in the case of **Smt. Chitra Rangachari**(Supra)that applicant's late husband Wing Commander N. Rangachari had been

commissioned in the Indian Air Force and whilst in service as an IAF officer, was deputed to the Cabinet Secretariat-Aviation Research Centre(ARC) and whilst serving on deputation died in an aircrash on 08.03.1988 and vide order dated 27.10.2017 of the AFT(RB), Chennai in OA 5/2016, that applicant was held entitled vide order dated 27.10.2017 to the grant of Special Family Pension as applicable to a widow of similarly placed Air Force Personnel. Significantly vide Paras-15 to 19 of the said order, it was observed to the effect:-

***“15. In the instant case, the applicant has claimed that she ought to be granted the more beneficial Special Family Pension instead of Extraordinary Pension under CCS Rules. There is merit in this argument. There is no doubt that Extraordinary Family Pension under CCS Rules and Special Family Pension under Air Force Pension Regulations are on the same footing and is granted to the families of Government servant/ service person, whose death has occurred while on bonafide duty. There is no dispute that the death of Wing Commander N.Rangachari was while he was on Government duty and his death is attributable to Government service and therefore, the wife of Late Wing***

**Commander N.Rangachari is entitled to the benefits of Extraordinary Family Pension under CCS Rules, 1939 as amended from time to time.**

**16. However, if the benefits of Special Family Pension under Pension Regulations under Air Force Act, 1961 are more beneficial, she has the choice of opting for the same. The Honourable Supreme Court on several occasions has held that pension is not a charity or a bounty nor is it a conditional payment solely dependent on the sweet will of the employer but it was a right earned by the employee. In the instant case, the applicant has sought Special Family Pension under Air Force Pension Regulations instead of Extraordinary Pension under CCS Rules, on the ground that it is more beneficial. Respondents 4 and 5 have stated that the family pension of the applicant has now been fixed at 30,840/- at normal rate with effect from 01.01.2006 by CPAO in the pay band of Rs.37,400/- - 67,000/- (VI CPC) with Grade Pay of Rs.8,000/- and a revised PPO dated 25.10.2016 has been issued to that effect. Applying the multiplication factor of 2.57 as accepted by the Government for the fixation of pension for civil services on implementation of VII Pay Commission, the applicant's pension works out to Rs.30840 (Basic Pension) X 2.57 = Rs.79,258 or Rs.79,260/- with effect from 01.01.2016. (excluding DA)**

**17. The case of the applicant is that though this has been done, similarly placed widows whose husbands also**

**died, while serving with the Air Force are getting much more pension. Further, with the grant of One Rank One Pension by the Government to Defence Pensioners, similarly placed persons entitled to Special Family Pension are drawing much more emoluments. Respondents 1 to 3 and 6 have filed a worksheet showing the entitlement of Special Family Pension, if granted to the applicant, under Air Force Pension Regulations. The work sheet has been duly vetted by office of the Addl CGDA (Air Force). Relevant portion of the work sheet is extracted below:**

**“The calculation of SFP in subject matter is given as per details appended below:**

| <i>Sl No.</i> | <i>Subject</i>  | <i>Rate of SFP(DR as applicable)</i> | <i>Effective from</i> |
|---------------|---|--------------------------------------|-----------------------|
| <i>(a)</i>    | <i>Pay as on 09 Mar 1988 as per revised LPC</i>   | <i>Rs. 5750/-</i>                    |                       |
| <i>(b)</i>    |   |                                      |                       |
| <i>(i)</i>    | <i>SFP @ 60% of 5750 wef.09 Mar 1988 is Rs.3450/- subject to maximum Rs.2500/- as per para 15 of Gol letter No.1(5)87/D/(Pension/Service) dated 30 Oct 1987 (If widow has children) If widow is childless then SFP shall be 5750X 30%</i> | <i>Rs. 2500/-</i>                    | <i>09 March 1988</i>  |
| <i>(ii)</i>   |   | <i>Rs. 1735/-</i>                    |                       |
| <i>c)</i>     | <i>Total Reckonable Emoluments Rs. 15100/-(13500+1600) SFP= 15100x 60%</i>  | <i>Rs. 9060/-</i>                    | <i>01 Jan 1996</i>    |
| <i>d)</i>     | <i>SFP(DP Merger) 9060 x1.5</i>   | <i>Rs. 13590/-</i>                   | <i>01 Apr 2005</i>    |
| <i>e)</i>     | <i>SFP as per Circular No. 560</i>  | <i>Rs. 31518/-</i>                   | <i>01 Jan 2006</i>    |
| <i>f)</i>     | <i>SFP as per Circular No. 555(OROP)</i>  | <i>Rs. 38914/-</i>                   | <i>01 Jul 2014</i>    |
| <i>g)</i>     | <i>SFP as per Circular No. 570</i>  | <i>Rs. 100009/-</i>                  | <i>01 Jan 2006</i>    |

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**From the above, it is evident that the applicant would benefit substantially, to**

***the tune of approximately Rs.20,000/- (Rs.1,00,009 – 79,260), if she were to be entitled to Special Family Pension instead of Extraordinary Pension under CCS (Pension) Rules.***

***18. In view of the provision of Regulation 6 of Pension Regulations for Air Force 1961 and the above discussion and findings, we are of the view that the applicant is entitled to opt for and receive pensionary award of Special Family Pension under the said Air Force Pension Regulations. Therefore, we find that she is entitled to Special Family Pension from the date of the death of her husband, i.e. 08.03.1988. However, as this case pertains to pension matter, which has a recurring/continuing cause of action and in view of the principles laid down by the Honourable Supreme Court in the case of UoI & Ors vs Tarsem Singh, (2008) 8 SCC 648, the arrears of Special Family Pension will be restricted to 3 years prior to the date of filing of this application, i.e. 05.01.2013 (05.01.2016).***

***19. We observe that a number of officers and soldiers from the Armed Forces are sent on deputation to the Central Government and many of them serve in sensitive appointments, which have a great bearing on National Security. Any perceived discrimination with regard to grant of entitled benefits, even if unintentional, would deter them from volunteering to serve on deputation on such appointments which is detrimental to national interests. A proactive and***

***positive approach is recommended while dealing with such cases.***

17. The order dated 01.07.2019 of the AFT(PB), New Delhi in OA 673/2016 in the case of **Smt. Neelam Malik**(Supra) also relates to the grant of Special Family Pension to the applicant thereof, who was widow of a Late Wing Commander who was a pilot of the Indian Air Force who died in a flying accident while on deputation with the Aviation Research Centre(ARC) under the aegis of the Cabinet Secretariat. Vide order dated 01.07.2019 in OA 673/2019, this Tribunal observed vide Para-5 thereof to the effect:

***“5. Learned counsel for the applicant refers to Regulation 105 of the Defence Services Regulations (Pension Regulations for the Army - Part I, 2008) in Section 3: Special Family Pension, admissibility of the same is elucidated as follows:***

***"105. (a) Special family pension may be granted to the family of Service personnel if his death occurred in the circumstances mentioned in category B and category C of Regulation 82 of these Regulations due to or hastened by:***

**(i) a wound, injury or disease which was attributable to military service, Or,**

**(ii) was due to aggravation by service of a wound, injury or disease which existed before or arose during service and in case of death after retirement/ discharged provided that the service personnel had retired/discharged otherwise than voluntarily/at own request on compassionate grounds before completion of terms of engagement.**

**(b) The question whether death is attributed to or aggravated by military service shall be determined under the Entitlement Rule For Casualty Pensionary Awards, 1982 contained in APPENDIX -IV to these Regulations.**

**Category C grants attributability in cases of death or disability due to accidents in the performance of duties such as :**

**(i) Accidents while travelling on duty in Government public/private transport. Vehicle or**

**(ii) Accidents during air journeys.**

**(iii) Mishaps at sea while on duty.**

**(iv) Electrocution while on duty etc.**

**(v) Accidents during participation in organized sports events/ adventure activities/ expeditions/training."**

and further vide Paras-8 and 9 thereof observed to the effect:-

**“8. Having given careful consideration to the arguments on both sides, we find that the primary issue before us is whether the next of kin (widow) of an Air Force officer who died in an air accident during duty while serving on deputation with a civil department (ARC/Cabinet Sectt) can be granted Special Family Pension as the widow of a Defence Services officer, which would also entitle her to benefits of OROP.**

**9. We find that the case of the applicant is squarely covered by the order of AFT (RB) Chennai in Mrs. Chitra Rangachari's case (supra) where the Tribunal had found that a similarly placed applicant would benefit substantially (to the tune of approximately Rs. 20,000/- per month) if granted Special Family Pension instead of Extraordinary Pension under CCS (Pension) Rules.”,**

and vide Para-10 reproduced Paras-15 to 19 of the order in **Smt. Chitra Rangachari**(Supra) which have already been adverted to in Para- 16 hereinabove with approval. As observed vide Para-11 of the order in **Smt. Neelam Malik**(Supra), it was conceded by the respondents that this order in **Smt. Chitra Rangachari**(Supra) had been implemented by the respondents. Para-11 of the order in

**Smt. Neelam Malik**(Supra) in OA 673/2016 reads to the effect:-

**“11. Learned counsel for the respondents concedes that this order passed by the Chennai Bench has been implemented by the Respondents. Accordingly, in keeping with the principles of equity and justice, we find that the applicant is liable to be granted the benefit of pension emoluments as was granted to the petitioner in the aforesaid case.”**

18. Thus, it is apparent that in terms of the said two orders of this Tribunal in **Smt. Chitra Rangachari**(Supra) and **Smt. Neelam Malik**(Supra), that a purposive and liberal approach has to be adopted for the grant of Special Family pension to the widows of the Late personnel of the Indian Air Force who were on deputation with the Aviation Research Centre(ARC) whilst deputed to the Cabinet Secretariat and expired during the course of discharge of their duties in Air crashes.

19. On behalf of respondent nos. 1 and 2, it was however submitted to the effect that the facts of the cases in **Smt. Chitra Rangachari**(Supra) and **Smt. Neelam Malik**(Supra) are not in *pari materia* with the facts of the instant case in as much as the applicant of the instant case unlike the applicants Smt. Chitra Rangachari and Smt. Neelam Malik had admittedly remarried Maj Gen S. Singh on 12.09.1981. Likewise, the learned counsel for the respondent nos. 3 and 4 submitted that it was because of the remarriage of the applicant on 12.09.1981 that the Extraordinary pension had been stopped. The Learned counsel for the respondent nos. 3 and 4 submits that there is no scope for restoration of the Extraordinary family pension, which submission is accepted.

20. That the applicant, the widow of a Late Armed Forces Personnel is entitled to the grant of Special Family Pension, even despite re-marriage is not in dispute in view of the letter no. (1)/2001/D(Pen/Policy) dated 20.01.2009 which has been referred to hereinabove in Para- 2. In these circumstances, the applicant who is entitled to the grant of Special Family

Pension because the applicant's late husband expired in an Air crash whilst on deputation with the Aviation Research Centre(ARC) cannot be denied the grant of Special Family Pension merely because she had remarried in view of letter no. (1)/2001/D(Pen/Policy) dated 20.01.2009.

21. In the circumstances of the instant case, the applicant herein is held entitled to the grant of Special Family Pension w.e.f. 20.01.2009 with consequential OROP benefits which is however confined to commence to run from a period of three years prior to the institution of the OA.

22. The applicant is also entitled likewise to the grant of consequential OROP benefits from 01.07.2014 which however shall be confined to commence to run from a period of three years prior to the institution of the OA.

23. The respondent nos. 1 and 2 are thus directed to calculate, sanction and issue the necessary Corrigendum 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 respondent nos. 1 and 2, failing which

the applicant will be entitled for interest @6% p.a. from the date of receipt of copy of the order by the respondent nos. 1 and 2.

Pronounced in the open Court on the 14<sup>th</sup> day of May, 2025.

**[LT GEN CP MOHANTY]  
MEMBER (A)**

**[JUSTICE ANU MALHOTRA]  
MEMBER (J)**

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