COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 715 of 2021
With
MA 1715/2023 & MA 1892/2023

In the matter of :

Smt. Reena Chauhan widow of
Late Sgt Krishan Singh Chauhan ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Shri Manoj Kr. Gupta, Advocate

For Respondents : Shri Prabodh Kumar, Sr. CGSC for Respondents Nos. 1, 2 and 5

Mr. Arnesh Yadav, Advocate for Respondents Nos. 3 and 4

None for Respondent No. 6

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R

Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under :

"A. Call for the Record including Corr FPO issued in favour of Mr. Himanshu Chauhan based on

which Family Pension was divided between Applicant and said Mr. Himanshu by the Respondents.

B. To direct the Respondents to restore 100% Family pension in favour of Applicant from the date of death of the deceased soldier (husband of the applicant) or in worst case wef Dec 2015 for which her eligibility has already been confirmed by the Air HQ/Resp No.2.

C. Direct the PDA (bank) to refund the amount to the tune of Rupees Two Lac and Forty Seven (Rs. 2,00,047/-) with applicable interest, the amount lying in applicant husband's account No. 82122200067233 since his death.

D. To grant arrears of restored family pension to the applicant along with 10% interest per annum.

E. Any other order as may be deemed fit and proper in the facts and circumstances of the case."

BRIEF FACTS

2. The husband of the applicant, Late Sgt Krishan Singh Chauhan (hereinafter referred to as 'the deceased airman')

joined the Indian Air Force on 21.04.1988 and was discharged from service on 31.01.2008 and was sanctioned service pension. He was married to one Mrs. Laxmi Rana with whom he had a son named Himanshu Chauhan, born on 10.09.1993, and a daughter named Chetan Chauhan, born on 10.09.1994. After demise of the first wife of the deceased airman, he married the applicant herein on 04.04.2005 and out of this wedlock, a son named Ayush Chauhan was born on 05.04.2006.

3. The husband of the applicant died on 08.11.2008. The applicant approached the Directorate for grant of Ordinary Family Pension (OFP) vide representation dated 31.12.2008. The son and daughter of the deceased airman, namely, Himanshu Chauhan also approached the Directorate vide letter dated 31.12.2008 for grant of 50% of family pension. The Directorate vide letter dated 06.01.2009 asked for submission of family pension claim form along with supporting documents for processing the case of family pension. However, after repeated correspondence, he had only submitted claim form without any supporting documents. The applicant approached the Directorate informing that

Himanshu Chauhan had attained the age of 25 years and requested that 100% family pension be granted in her favour. The applicant sent a letter dated 19.07.2019 to the Directorate stating that Himanshu Chauhan and Chetan Chauhan (son and daughter from the first wife of the deceased airman) got married on 02.12.2015 and 29.11.2009 respectively and again requested for grant of 100% family pension in her favour w.e.f. 03.12.2015. However, it could not be done for want of PPO. Aggrieved by this, the applicant filed the present OA seeking restoration of 100% family pension in her favour and also refund of the amount of Rs. 2,00,047/- lying in her late husband's account along with interest.

4. Reply affidavit has been filed on behalf of all the respondents (Respondents Nos. 1 to 5) on 06.07.2002. It has been submitted by the learned counsel for the respondents that late Sgt Krishan Singh Chauhan was discharged on 31.01.2008 after fulfilling the conditions of enrolment and he was granted service pension vide PPO No. 08/14/B/14185/2008, in which the name of the applicant was jointly notified; that the air veteran expired before commencement of service pension. It has been further

submitted that there is no record available regarding the details of the division of the family pension 50%-50% between the applicant and Himanshu Chauhan (son born from the first marriage of the deceased airman).

5. After the applicant approached the Directorate of Veterans vide her letter dated 19.07.2019, the case of the applicant was taken up with the office of the Jt CDA(AF) vide letter dated 09.06.2020 for restoration of the 100% family pension in the name of the applicant, however, the same was returned by the Jt CDA(AF) vide letter dated 11.08.2020 for want of copy of the PPO vide which 50% of family pension was granted to Himanshu Chauhan. Thereafter the respondents vide letters dated 21.08.2020 and 13.11.2020 asked the Branch Manager, Syndicate Bank, the pension disbursing bank, about the PPO and the status of the family pension received by the applicant, but no response was received from the bank. The case was then submitted to PSA on 08.03.2021 but they returned the case and the intimation was sent to the applicant in this regard vide letter dated 21.05.2021. In view of the above, the learned counsel prayed for dismissal of the present OA.

ANALYSIS

6. We have heard the learned counsel for both the parties and have also perused the submissions and material on record.

7. It is undisputed that the applicant's name has been notified in the PPO issued to the deceased airman as a Next-of-Kin. Although as averred by the learned counsel for the respondents that there is no record available regarding division of the family pension between the applicant and Himanshu Chauhan, but the applicant herself made a statement on record that she was in receipt of 50% of family pension and 50% thereof was being paid to the son of the deceased airman born out of the first marriage, Himanshu Chauhan (as stated in his affidavit dated 22.07.2019 on record). The applicant seeks 100% family pension in her favour stating that the said Himanshu Chauhan was married on 02.12.2015 and attained the age of 25, hence he is not eligible for grant of family pension.

8. It would be appropriate to refer to GoI MoD policy letter No. 17(4)/2008(2)/D (Pen/Policy) Department of

Ex-Servicemen Welfare dated 12.11.2008 implementation of recommendations of 6th CPC – Revision of provisions regulating various pensions including family pension for the Armed Forces officers and PBOR retiring or dying in harness on or after 01.01.2006. The relevant portion of the aforesaid policy letter is reproduced below :

"No. 17(4)/2008(2)/D (Pen/Policy)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare
New Delhi, Dated : 12.11.2008

To
The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of the Air Staff

SUBJECT: RECOMMENDATIONS OF THE SIXTH CENTRAL PAY COMMISSION -REVISION OF PROVISIONS REGULATING PENSION/GRATUITY/COMMUTATION OF PENSION/FAMILY PENSION/DISABILITY PENSION FOR THE ARMED FORCES OFFICERS AND PERSONNEL BELOW OFFICER RANK (PBOR) RETIRING OR DYING IN HARNESS ON OR AFTER 01-01-2006.

Sir,

xxx xxx

11. FAMILY PENSION

11.1. For the purpose grant of family pension, the 'Family' shall be categorized as under:
CATEGORY-I
(a) earlier; widow or widower, upto the date of death or re-marriage, whichever is
(b) Son/daughter (including widowed daughter), upto the date of his/her marriage/re-marriage or till the date he/she starts earning or till the age of 25 years, whichever is the earlier.
CATEGORY-II
(c) Unmarried/Widowed/Divorced daughter, not covered by Category-l above, upto the date of marriage/re-marriage or till the date she starts earning or upto the date of death, whichever is earlier.

(d) Parents who were wholly dependent on the Armed Forces personnel when he/she was alive provided the deceased personnel had left behind neither a widow nor a child.

Family Pension to dependent parents unmarried/divorced/widowed daughter will continue till the date of death.

Family Pension to unmarried/widowed/divorced daughters in Category-II and dependent parents shall be payable only after the other eligible family members in Category -I have ceased to be eligible to receive family pension and there is no disabled child to receive the family pension. Grant of family pension to children in respective categories shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above him/her has become ineligible for grant of family pension in that category."

9. The applicant has filed an affidavit of Himanshu Chauhan (son born from the first marriage of the deceased airman) duly sworn by him stating that he was married to one Neha d/o Shri Rampal and he has been married since 02.12.2015 and is also above 25 years of age. It was further stated therein that the deponent (Himanshu Chauhan) was in receipt of 50% of family pension and that he did not have any objection if this 50% family pension is paid to Smt. Reena (applicant herein). The said affidavit of Himanshu Chauhan was duly attested by the Executive Magistrate, Farrukh Nagar on 22.07.2019. As directed by the Tribunal, Himanshu Chahan, the son of the deceased airman (born from the first wife), was impleaded as a party to this petition as Respondent No. 6 vide Tribunal's order dated 15.07.2021. However,

despite service of notice, this respondent i.e. Himanshu Chauhan, neither appeared nor was represented by anyone, in any of the hearings starting from 16.09.2021 till 10.12.2024 and accordingly he was proceeded *ex-parte* on 10.12.2024.

10. In view of the above facts and circumstances as also the provisions regulating the family pension contained in policy letter dated 12.11.2008, as reproduced hereinabove, since Himanshu Chauhan is above the age of 25 years and is already married and thus is not entitled to grant of family pension as per the provisions brought out hereinabove. An affidavit sworn by the said Himanshu Chauhan is also on record stating that he has no objection if 100% family pension is granted to the applicant. Therefore, in our view, the applicant is now entitled to 100% family pension in her favour. We also deem it appropriate that the amount of Life Time Arrear (LTA) already lying in the account of the deceased airman be also paid to the applicant being the legally wedded wife of the deceased airman.

CONCLUSION

11. In view of the above, O.A. No. 715 of 2021 is allowed. Respondents Nos. 1 and 2 are directed to issue Corrigendum

PPO and grant 100% ordinary family pension in favour of the applicant with effect from 03.12.2015, within a period of two months from the date of receipt of a copy of this order. Respondents Nos. 3 and 4 are directed to ensure that, on taking appropriate steps by the applicant by way of filing an application in this regard along with a copy of this order and on verification, the amount of LTA lying in the account of the husband of the applicant since his death is refunded to the applicant within a period of two months from the date of receipt of such application.

12. Pending miscellaneous applications, if any, stand closed. There is no order as to costs.

Pronounced in open Court on this 3rd day of September, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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