

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

OA 36/2025

Mrs. Y.P. Thorat w/o

(Late) Brig. P.D. Thorat

... Applicant

versus

Union of India & Ors.

... Respondents

For Applicant

: Mr. K. R. Verma, Advocate

For Respondents

**: Mr. Vijendra Singh Mahndiyani
Advocate**

CORAM:

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
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) Call for the complete medical record, i.e., Case sheets related to the treatment, noting sheet for disposal of initial claim by the MoD and the copy of fwd letter vide which the decision to reject claim for spl fam pension has been conveyed to the applicant.*”**

(B) Direct the respondents to treat the death of the deceased as aggravated by the military service, as conceded and approved by the medical authorities.

(C) Direct the respondents to grant special family pension to the applicant w.e.f. the date of the death of the Husband of the applicant, because the respondents have failed in their legal duty to inform about the disposal of initial claim to Spl fam pension and the delay in filing present application has occurred solely due to reasons attributable to the respondents.

(D) Direct the respondents to pay the arrears with 9% interest from the date of death of the husband of the applicant to till actual date of payment.

(E) Pass any other order / directions as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

BRIEF FACTS

2. The husband of the applicant was Commissioned in the Indian Army on 07.06.1959 and he died while in service on 22.06.1986. The cause of death of the deceased soldier as per AFMSF – 93 (Part – II) (annexed as Annexure R-3 to the Counter Affidavit filed on 14.11.2025) was the disease **Acute Intero Septal Myocardial Infarction** which was assessed as 'Aggravated' by the military service. The husband of the applicant has served 27 years and 15 days in the commissioned service.

3. The applicant, i.e., widowed wife of the deceased soldier, is in receipt of the Ordinary Family Pension w.e.f. 23.06.1986 vide the Corrigendum PPO No. M/MODP/MNL/784/99 (*annexed as Annexure A-3 to the OA*), however, the applicant was not granted Special Family Pension.

4. The Applicant filed representations dated 18.12.2023 and 01.02.2024 to the Army HQ seeking the grant of the Special Family Pension. The representation dated 01.02.2024 was considered by the respondents and the same was rejected vide their reply letter No. 12681/IC-11521/T-4/MP 5(B) dated 03.06.2024 (*impugned order annexed as Annexure A-1 to the OA*), stating the long delay of 37 years in filing of the instant OA and that the competent authority is not accorded with the power to give a time-barred sanction to the appeals beyond five years period.

5. Aggrieved by the said decision of the respondents, the applicant has filed the instant OA. In the interest of justice, in accordance with Section 21(2)(a) of the AFT Act, 2007, we take up the present OA for consideration.

CONTENTIONS OF THE PARTIES

6. The learned counsel for the applicant submitted that the husband of the applicant was Commissioned in the Indian Army on 07.06.1959, having been declared medically fit after comprehensive evaluations. The deceased soldier was admitted to the Military Hospital, Kirkee, Pune, while in service and later on died on 22.06.1986 due to the disability **Acute Intero Septal Myocardial Infarction.**

7. The learned counsel for the applicant further submitted that the applicant was in receipt of the Ordinary Family Pension (OFP) instead of Special Family Pension (SFP) and the applicant had filed seeking the grant of Special Family Pension as the disease of the husband of the applicant was assessed as 'aggravated due to military service'.

8. The learned counsel for the applicant submitted that the applicant was never informed, in any way or manner, of the rejection of the claim for the grant of Special Family Pension, however, the respondents vide Para 2(a) of the impugned letter dated 03.06.2024 submitted that the initial claim for the Special

Family Pension in respect of the applicant has already been examined and rejected vide GoI-MoD letter No. F3(45)/86/Pen-L dated 12.01.1987. The said rejection letter was never communicated to the applicant.

9. The learned counsel for the applicant submitted that since the applicant was never communicated of the rejection of the claim for the Special Family Pension, the applicant had no legal opportunity to represent against the initial rejection.

10. The learned counsel for the applicant while submitting that the applicant is eligible for the grant of Special Family Pension, vide Para 4.8 of the OA, had relied on Regulation 310 of the Pension Regulations for the Army, 1961 (Part-1) (hereinafter referred to as 'PRA, 1961'). Regulation 310 of the PRA, 1961 is reproduced hereinbelow which states to the effect: -

“310. (a) A special family pension to the widow of an officer and special children's allowance and education allowance to children, or dependants' pension to his parents or brothers and sisters, may be granted if the death of the officer was due to or hastened by

- (i) a wound, injury or disease which was attributable to his military service as a commissioned officer, or**
- (ii) the aggravation by his military service as a commissioned officer of a wound, injury or disease which existed before or arose during military service,**

Provided that no award shall be admissible if the death was due to or hastened by any minor physical defect which was noticed at the time of joining the Territorial Army but was condoned under the relevant rules. This proviso shall not, however, apply in respect of death by accident while an officer is on duty.

(b) A gratuity may, in addition to special family pension, be granted to the widow of an officer if the death of the officer occurs in circumstances mentioned in regulation 104."

11. *Per contra*, the learned counsel for the respondents submitted that the applicant had preferred first appeal after a significant delay of 38 years since the initial rejection for the grant of SFP on 12.01.1987. It is further submitted that owing to the long delay in filing the appeal against initial rejection, the records of the rejection of the initial claim dated 12.01.1987 for the grant of SFP can no longer be recovered in the service documents.

12. The learned counsel for the respondents in the Para-wise reply to Para 4.8 of the OA, in their Counter Affidavit filed on 14.11.2025 submitted that the instant case is not covered under the provisions of Para 310 and 104 of the PRA, 1961 and therefore, the claim of the applicant for the grant of Special Family Pension is not admissible and accordingly the OA is liable to be dismissed.

ANALYSIS

13. We have heard the learned counsel for both the parties at length and have perused the records produced before us. The husband of the applicant in this case, who is a deceased soldier, died while he was on active military service on 22.06.1986. The cause of death of the husband of the applicant in this case is the disease/disability **Acute Intero Septal Myocardial Infarction** which was considered as 'Aggravated due to military service' by the competent medical authority vide AFSMF – 93 (Part – II).

14. It is the case of the applicant who is the widowed wife of the deceased soldier that she is eligible for the grant of Special Family Pension whereas she was granted the Ordinary Family

Pension w.e.f. 23.06.1986 (next day of death of her deceased husband) vide the Corrigendum PPO No. M/MODP/MNL/784/99.

15. Since the husband of the applicant in this case was a commissioned officer who served for 27 years and 15 days in the commissioned service, it is essential to advert to the Pension Regulations for the Army, 1961 (Part-1), which governs the aspect of eligibility for the grant of all the pensionary benefits including the Special Family Pension which is provided under Regulation 85. The relevant extract as provided under Regulation 85 of the PRA 1961 which governs the aspect of eligibility for the grant of Special Family Pension to Commissioned Officers is reproduced hereinbelow, which states to the effect: -

“85. A special family pension to the widow of an officer and special children's allowance to his legitimate children under 18 years of age, or dependants' pension to his/her parents or brothers/sisters may be granted if his/her death was due to or hastened by either a wound, injury or disease which was attributable to military service or the aggravation by military service of a wound

injury or disease which existed before or arose during military service, provided that: -

a) in the event of death after retirement, the officer did not retire voluntarily; and provided further that

b) in the case of pension for a widow and allowance for a child

xxx”

It is pertinent to note that in the present case the disease / disability which was suffered by the husband of the applicant while he was in active service due to which he died during the service was assessed as ‘aggravated by the military service’ vide AFMSF – 93 (Part – II) by the competent authority.

16. Since the question on the aspect of eligibility of the applicant in this case for the grant of Special Family Pension is governed by Regulations 85 (*supra*) and the facts of the present case are also fulfilling the *pre requisites* for the grant of Special Family Pension as enumerated under Regulation 85 of the PRA 1961 (*supra*), we hold that the applicant in this case is eligible for the grant of Special Family Pension as the deceased husband of the applicant was a commissioned officer who died whilst in

service and the competent authority had assessed the case of the deceased soldier as 'aggravated by the military service'.

17. The applicant in this case is *prima facie* covered by Regulation 85 of the PRA 1961 (*supra*) and it was incumbent upon the respondents' office / functionaries to allow the claim of the applicant for the grant of Special Family Pension instead of the Ordinary Family Pension as the cause of death of the deceased soldier was never assessed as 'Neither Attributable to Nor Aggravated (NANA)' by the military service, but was assessed as aggravated due to military service. It is also essential to consider that the applicant was deprived of her entitlement i.e., the Special Family Pension, due to negligent actions of the respondents.

CONCLUSION

18. The OA 36/2025 is thus allowed and the applicant is held entitled for the grant of Special Family Pension from the next date of demise of her husband on 22.06.1986, i.e., w.e.f. 23.06.1986.

19. Since the applicant is in receipt of Ordinary Family Pension w.e.f. 23.06.1986 as per the rate of OFP applicable to her, we direct the respondents to pay the applicant the difference of the rates between Ordinary Family Pension and the Special Family Pension w.e.f. 23.06.1986 till commencement of payment of Special Family Pension and further direct for commencement of payment of Special Family Pension thereafter.

20. 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 failing which the applicant shall be entitled to the interest @ 6% per annum till the date of actual payment.

21. There is no order as to costs.

Pronounced in the open Court on this 17 day of March, 2026.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[REAR ADMIRAL DHIREN VIG]
MEMBER (A)