

COURT NO. 3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA 2035/2018

Smt. Lalita Devi Wd/o Applicant
Laste Sep Susheel Kumar
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate
For Respondents : Ms. Theepa Murugesan, Advocate with
Ms. Sanya Bhatia, Advocate.

Dated: 16th April, 2026

CORAM :

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

The applicant, Smt. Lalita Devi, widow of late Sepoy Susheel Kumar, has filed the present Original Application under Section 14 of the Armed Forces Tribunal Act, 2007 challenging Annexure A-1 letter dated 08.05.2018, whereby her claim for grant of Liberalized Family Pension has been rejected on the ground that the death of her husband was not treated as a battle casualty.

2. Brief facts of the case are that the applicant's husband was enrolled in the Indian Army (Army Service Corps) on 23.06.2012. On 04.12.2016, he was detailed for convoy

duty in connection with Annual Winter Stocking (AWS) from FSD Udhampur to Batra Transit Camp for units deployed in High Altitude/Snow Bound Areas and Counter Insurgency Areas in Jammu & Kashmir. While performing the said duty, he died on 04.12.2016 when the military vehicle driven by him met with an accident while he was serving with 5071 ASC Battalion. Initially, his death was categorized as a “physical casualty” as per the report initiated by 5071 ASC Battalion (MT). Subsequently, a Court of Inquiry (CoI) was convened to investigate the circumstances leading to the incident. Thereafter, on 25.07.2017, the case was re-examined and another report was submitted treating the death of the applicant’s husband as a “battle casualty.” However, the Integrated Headquarters of MoD (Army), vide letter dated 02.08.2017, rejected the claim on the ground that the circumstances of death were not covered under Appendix ‘A’ to Government of India, MoD letter No. 1/2003/MP read with Categories ‘D’ and ‘E’ of letter dated 31.01.2001. Aggrieved thereby, the applicant submitted a representation dated 25.08.2017, which was replied to by reiterating that, as per the service records maintained by the unit, the death had

been classified as a physical casualty. Thereafter, on 26.04.2018, the applicant issued a legal notice-cum-representation seeking grant of Liberalized Family Pension by treating the death of her husband as a battle casualty, relying upon the subsequent report of the unit authorities. The said claim was, however, rejected vide impugned letter (Annexure A-1), stating that since the death occurred due to a vehicular accident while serving with 5071 ASC Battalion, it does not fall under Category 'D' (referred to as Category 82(D)) of the Pension Regulations for the Army, Part-I (2008). Consequently, the applicant was sanctioned Special Family Pension under the existing provisions by the Pension Sanctioning Authority, i.e., PCDA (P), Allahabad, vide PPO No. F/20641/2017 dated 30.10.2017. Hence, the present Original Application seeking the following reliefs:

- (i) *Quash and set aside the impugned letter No. 14859517/LN/Legal Cell dated 08.05.2018; and/ or*
- (ii) *Direct the respondents to treat the death of the husband of the applicant as Battle Casualty and grant her Liberalized Family Pension with all consequential benefits as applicable; and/ or*
- (iii) *Direct the respondents to pay the due arrears of War Injury pension with interest @ 12% p.a with effect from the date of invalidment from*

*service with all the consequential benefits;
and/ or*

*(iv) Any other relief which this Tribunal may deem
fit and proper in the fact and circumstances of
the case.*

3. At the outset, learned counsel for the applicant assails the action of the respondents in declining the grant of Liberalized Family Pension on the premise that the death of the applicant's husband was not categorized as a battle casualty. It is contended that such denial is arbitrary, unjustified and contrary to the governing policy framework. Elaborating the factual matrix, it is submitted that the applicant's husband was detailed on 04.12.2016 for convoy duty in connection with Annual Winter Stocking (AWS) involving movement from FSD Udhampur to Batra Transit Camp for supply to units deployed in High Altitude and Counter Insurgency areas in Jammu and Kashmir. While proceeding as part of an operational convoy from Batra Transit Camp towards Sonamarg, a civil vehicle allegedly overtook his vehicle near Rangamore and applied sudden brakes. In an attempt to avert a collision, the applicant's husband applied brakes resulting in the vehicle skidding, striking a roadside rock and ultimately overturning into a *nala*. The vehicle reportedly rolled down a steep quay

approximately 300 feet deep at about 1120 hours. He was immediately evacuated to the MI Room at Sonamarg, where he was declared dead at 1215 hours. It is further submitted that although the incident was initially classified as a “Physical Casualty” by 5071 ASC Battalion (MT), a Court of Inquiry was convened and upon reconsideration, the unit authorities treated the case as a “Battle Casualty” in terms of the applicable Army Orders. However, the Integrated Headquarters of the Ministry of Defence (Army), vide signal dated 02.08.2017, rejected such classification holding that the circumstances did not fall within the scope of Appendix ‘A’ to Army Order 1/2003/MP read with Categories ‘D’ and ‘F’ of the Government of India, Ministry of Defence letter dated 31.01.2001 and directed that the case be treated as a Physical Casualty. Learned counsel contends that the said conclusion is erroneous and contrary to the applicable provisions. It is argued that as per Appendix ‘A’ to Army Order 1/2003/MP, accidental deaths occurring during bona fide military duties in operational areas, including counter-insurgency operations and movements connected therewith, are liable to be treated as battle casualties. It is further urged that the case squarely falls within the ambit of Category ‘E’

(particularly sub-clause (i)) of the Government of India letter dated 31.01.2001, as the convoy movement formed part of an operation in a notified operational area. Emphasis is also laid on the finding of the Commanding Officer attributing the incident to military service and recommending its classification as a battle casualty, thereby entitling the applicant to Liberalized Family Pension.

4. The learned counsel for the applicant further submitted that the impugned action of the respondents in classifying the death of the applicant's husband as "Physical Casualty" is wholly arbitrary, perverse and contrary to the applicable statutory policy framework. The undisputed factual matrix clearly establishes that the deceased was performing an operational task namely, participating in an authorized military convoy for Annual Winter Stocking in a notified Counter Insurgency/High Altitude Area in Jammu & Kashmir, which squarely falls within the ambit of an "operational area." In such circumstances, para (iv) of Army Order 1/2003/MP unequivocally mandates that accidental injuries or deaths occurring in action in an operational area are to be treated as "Battle Casualty." The respondents have failed to appreciate that

the expression “occurring in action” includes all activities integrally connected with operational duties, including logistical and convoy movements essential for sustenance of deployed troops. The rejection of the claim by narrowly interpreting Appendix ‘A’ and ignoring the binding effect of para (iv), read with Category ‘E’ of Government of India, Ministry of Defence letter dated 31.01.2001, amounts to misapplication of policy and non-consideration of relevant material, including the detailed report of the unit which had rightly recommended the case as Battle Casualty. Such an approach defeats the very object of the beneficial scheme intended to grant liberalized family pension to the dependents of personnel who sacrifice their lives in operational conditions. The impugned decision is, therefore, liable to be set aside as being illegal, irrational and violative of Articles 14 and 21 of the Constitution of India.

5. In support of the aforesaid submissions, reliance has been placed on a series of decisions. They are:

(i) Ex Gore Dattatraya Mhatarji v. Union of India and others (O.A No. 127 of 2016 decided by AFT (PB) on 11.10.2017)

(ii) Smt. Rupam v. Union of India and others (O.A No. 1133 of 2017 decided by AFT (PB) on 07.11.2017)

(iii) Maj Arvind Kumar Suhag v. Union of India and others (W.P (C) No.4488 of 2012 decided by Delhi High Court on 21.02.2013)

(iv) Union of India and others v. Saroj Devi (C.A No. 13730 of 2024 decided by the Hon'ble Supreme Court on 03.12.2024)

(v) Union of India and others v. Ex Sep B. Rama Krishna and another (decided by the Punjab & Haryana High Court on 01.07.2025)

(vi) Rekha Joshi v. Union of India and others (O.A No. 384 of 2019 decided by the AFT (RB), Srinagar at Jammu on 11.12.2023)

These decisions have been cited to contend that a liberal and purposive interpretation is required in cases involving operational duties and that casualties arising out of bona fide military activities in operational areas, particularly convoy movements and counter-insurgency deployments, ought to be treated as battle casualties, thereby entitling the dependents to Liberalized Family Pension.

6. Per contra, learned counsel appearing for the respondents contended that the impugned communication (Annexure A1) does not suffer from any illegality or infirmity. It was submitted that the applicant's husband expired in a road accident on 04.12.2016 while on duty and, upon due consideration of the circumstances, the competent authority classified the incident as a "Physical Casualty" attributable to military service.

On the basis of the report dated 06.12.2016, the applicant was sanctioned Special Family Pension with effect from 05.12.2016, payable till her remarriage or demise, in terms of PPO dated 30.10.2017. It was further pointed out that a subsequent report dated 25.07.2017 was generated by the unit, wherein the nature of casualty was altered from "Physical" to "Battle Casualty" with a modified narration of events. However, the said recommendation did not find acceptance and was rejected by the competent authority vide signal dated 02.08.2017 reaffirming the classification of the casualty as "Physical Casualty" and directing correction of records accordingly. The applicant's subsequent representations, including those addressed to ASC Records (South) and through the CPGRAMS portal, were duly examined and responded to by communications dated 08.09.2017 and 06.11.2017. The legal notice issued on behalf of the applicant on 26.04.2018 was also considered and replied to vide the impugned letter dated 08.05.2018.

7. In support of the above position, learned counsel for the respondents placed reliance on the relevant provisions of the Pension Regulations for the Army. It was submitted that under

Regulation 71, the grant of pensionary benefits is not an absolute right and remains subject to the satisfaction of the competent authority with regard to the nature of service and the circumstances of death. It was contended that Liberalized Family Pension is admissible only in cases falling within the specified categories, particularly Categories 'D' and 'E' read with Regulation 82, which, according to the respondents, are not attracted in the present case. Emphasis was laid on the fact that the deceased was engaged in routine Annual Winter Stocking duties and that the cause of death, as recorded in the original report, was a road accident. Such a circumstance, according to the respondents, falls within the ambit of "Physical Casualty" and is appropriately covered under Category 'C', thereby disentitling the applicant from claiming Liberalized Family Pension.

8. With regard to the subsequent report dated 25.07.2017, it was submitted that the same was inconsistent with the original findings and was not accepted by the competent authority. It was further contended that the authority competent to determine and declare a "Battle Casualty" is the Integrated Headquarters of Ministry of Defence (Army) in terms of the

policy instructions dated 03.06.2013 and the classification made by such authority is final and binding.

9. Reliance was also placed on judicial precedents, including Smt. Veena Devi Vs. Union of India and others (O.A No. 4 of 2017 (decided by AFT (PB) on)) and Hira Singh v. Union of India and others (O.A No. 839 of 2014 decided by AFT (RB), Chandigarh to contend that accidental deaths not falling within the prescribed operational categories do not qualify for grant of Liberalized Family Pension.

10. Having heard the learned counsel for the parties and upon perusal of the pleadings and material placed on record, the following issues arise for consideration:

1. Whether the death of the applicant's husband, which occurred on 04.12.2016 during an operational convoy in a Counter Insurgency/High Altitude Area in Jammu & Kashmir, ought to be classified as a "Battle Casualty" in terms of para (iv) of Army Order 1/2003/MP read with the relevant Government of India policy dated 31.01.2001?
2. Whether the action of the respondents in treating the said death as a "Physical Casualty", despite the operational nature of the duty being performed, is arbitrary, unreasonable or contrary to the applicable policy framework?

3. Whether the subsequent report dated 25.07.2017 submitted by the unit recommending classification as “Battle Casualty” was liable to be disregarded by the competent authority and if so, whether such rejection suffers from non-application of mind or procedural impropriety?
 4. Whether the applicant is entitled to the grant of Liberalized Family Pension in terms of Regulation 82 of the Pension Regulations for the Army read with Categories ‘D’ and ‘E’ of the relevant Government of India instructions?
 5. Whether the impugned communication dated 08.05.2018 (Annexure A1) rejecting the claim of the applicant is legally sustainable?
11. There is no dispute that the grant of Liberalized Family Pension (LFP) is governed by Army Order 1/2003/MP dated 31.01.2001. The applicant contends that the deceased falls within Category E(i) of the Government of India, Ministry of Defence letter dated 31.01.2001 read with Army Order 1/2003/MP. It is urged that the classification of the death as a “physical casualty” is arbitrary and contrary to the governing policy, inasmuch as the deceased was part of an operational convoy in a Counter Insurgency/High Altitude Area in Jammu & Kashmir. Reliance is placed on para (iv) of Army Order 1/2003/MP, which states that “*accidental injuries and*

deaths occurring in action in an operational area will be treated as Battle Casualty” read in conjunction with Categories ‘D’ and ‘E’ of the Government of India letter dated 31.01.2001. It is further submitted that the deceased was performing operational duties as part of an authorized military convoy engaged in Annual Winter Stocking, which, according to the applicant, is intrinsically connected with operational deployment in a notified area. On this basis, it is argued that the case squarely falls within Category ‘E’ warranting classification as a “Battle Casualty” and entitling the applicant to LFP.

12. Per contra, the respondents assert that the case falls under Category ‘C’ of the applicable policy. Their primary contention is that the death occurred due to a road accident during routine movement and lacks any direct or proximate nexus with combat or operational exigencies. It is emphasized that the activity undertaken - Annual Winter Stocking was logistical in nature and does not satisfy the requirements for classification under Categories ‘D’ or ‘E’. The respondents further rely upon the contemporaneous report dated 06.12.2016, which records the cause of death as “accidental (road accident)” and classifies the incident as a “physical casualty.” According to them, such

classification squarely falls outside the ambit of Regulation 82 read with Categories 'D' and 'E' thereby disentitling the applicant from LFP and restricting the entitlement to Special Family Pension. It is in this factual and legal backdrop that the issues framed hereinabove are required to be adjudicated.

13. For proper adjudication of the issues, it is necessary to examine the scope and ambit of Categories 'D' and 'E' of the Government of India, Ministry of Defence letter dated 31.01.2001 read with Army Order 1/2003/MP. The relevant provisions are reproduced hereunder:

***PART II – PENSIONARY BENEFITS ON DEATH /
DISABILITY IN ATTRIBUTABLE / AGGRAVATED CASES”***

4.1 For determining the pensionary benefits for death or disability under different circumstances due to attributable/aggravated causes, the cases will be broadly categorized as follows:—

Category A

Death or disability due to natural causes neither attributable to nor aggravated by military service as determined by the competent medical authorities. Examples would be ailments of nature of constitutional diseases as assessed by medical authorities, chronic ailments like heart and renal diseases, prolonged illness, accidents while not on duty.

Category B

Death or disability due to causes which are accepted as attributable to or aggravated by military service as determined by the competent medical authorities. Diseases contracted because of continued exposure to a hostile work environment, subject to extreme weather conditions or occupational hazards resulting in death or disability would be examples.

Category C

Death or disability due to accidents in the performance of duties such as:—

- (i) Accidents while travelling on duty in Government Vehicles or public/private transport.*
- (ii) Accidents during air journeys.*
- (iii) Mishaps at sea while on duty.*
- (iv) Electrocution while on duty, etc.*
- (v) Accidents during participation in organised sports events/adventure activities/expeditions/training.*

Category D

Death or disability due to acts of violence/attack by terrorists, anti-social elements, etc., whether on duty other than operational duty or even when not on duty. Bomb blasts in public places or transport, indiscriminate shooting incidents in public, etc., would be covered under this category, besides death/disability occurring while employed in the aid of civil power in dealing with natural calamities.

Explanation:

Cases falling under Category D entitles liberalized disability pension or liberalized family pension as the case may be.

Category E

Death or disability arising as a result of:—

- (i) Enemy action in international war.*
- (ii) Action during deployment with a peace keeping mission abroad.*
- (iii) Border skirmishes.*
- (iv) During laying or clearance of mines including enemy mines as also minesweeping operations.*
- (v) On account of accidental explosions of mines while laying operationally oriented mine-field or lifting or negotiating minefield laid by the enemy or own forces*

in operational areas near international borders or the line of control.

- (vi) *War like situations, including cases which are attributable to/aggravated by:—*
 - (1) *Extremist acts, exploding mines etc. while on way to an operational area.*
 - (2) *Battle inoculation training exercises or demonstration with live ammunition.*
 - (3) *Kidnapping by extremists while on operational duty.*
- (vii) *An act of violence/attack by extremists, anti-social elements etc.*
- (viii) *Action against extremists, antisocial elements, etc. Death/disability while employed in the aid of civil power in quelling agitation, riots or revolt by demonstrators will be covered under this category.*
- (ix) *Operations specially notified by the Government from time to time.*

Explanation:

Death or injury sustained in the circumstances falling under Category E entitles liberalized family pension or war injury pension as the case may be.

Note: The illustration given in each category above from 'A' to 'E' are not exhaustive. Case not covered under these categories shall be dealt with as per Entitlement Rules for Casualty Pensionary Awards 1982 as contained in APPENDIX IV of these Regulations.

A conjoint reading of the aforesaid provisions makes it evident that the scheme of categorization is structured and mutually exclusive with each category addressing distinct factual situations based on the nature of causation and the degree

of nexus with military service and operational hazards. Category 'C' specifically covers "death or disability due to accidents in the performance of duties" and expressly includes accidents while travelling on duty in Government vehicles or other transport. Thus, where the proximate cause of death is an accident occurring during the course of duty, such cases are intended to be governed by Category 'C'. In contrast, Categories 'D' and 'E', which alone attract the benefit of Liberalized Family Pension, contemplate qualitatively different circumstances. Category 'D' relates to acts of violence or attacks by terrorists or anti-social elements, while Category 'E' is confined to situations involving enemy action, war-like conditions, extremist activities or other notified operational contingencies. The underlying principle in these categories is the existence of a direct and proximate nexus with hostile, combat or operational risks of an intensified nature. The distinction between Category 'C' on the one hand and Categories 'D' and 'E' on the other is, therefore, not merely based on the place of occurrence, but on the character and causation of the incident. Mere occurrence of death in an operational area does not ipso facto bring the case within

Categories 'D' or 'E', unless the causative factor itself is intrinsically linked with operational hazards such as enemy action, terrorist activity or war-like situations.

14. Applying the aforesaid framework to the present case, it is evident that the death of the deceased was caused due to a road accident while travelling on duty as part of a convoy. The proximate and immediate cause of death is thus an accident simpliciter. There is no material to demonstrate that the incident involved any element of enemy action, terrorist attack, extremist activity or any other circumstance falling within the ambit of Category 'D' or 'E'. The attempt to bring the case under Category 'E' on the ground that the incident occurred in a Counter Insurgency/High Altitude Area cannot be accepted. The policy does not contemplate classification based solely on the geographical location of the incident; rather it requires a causal connection with the nature of operational risks enumerated in Category 'E'. In the absence of such nexus, the case cannot be elevated from Category 'C' to Category 'E'. If such an interpretation as canvassed by the applicant were to be accepted, it would lead to an anomalous situation where every accident occurring in an operational area would automatically

qualify as a “Battle Casualty”, thereby rendering the carefully delineated categories redundant and defeating the intent of the policy. In view of the above, we are of the considered opinion that the present case is squarely covered under Category ‘C’, being a case of death due to an accident while travelling on duty. Consequently, it does not fall within the ambit of Categories ‘D’ or ‘E’, which are sine qua non for grant of Liberalized Family Pension. Accordingly, the classification of the incident as a “physical casualty” by the respondents cannot be faulted, as the same is consistent with the governing policy framework and supported by the nature of the incident.

15. We have carefully considered the judgments relied upon by the learned counsel for the applicant. The legal principles enunciated therein, particularly that pensionary provisions, being beneficial in nature, merit liberal interpretation are well settled. Equally, it is not in dispute that cases arising from operational areas require careful and contextual scrutiny. However, the applicability of such precedents is necessarily contingent upon the factual matrix of each case. In the decisions cited, the benefit of classification as “Battle Casualty” was extended in circumstances where a clear, direct and proximate

nexus existed between the cause of death/injury and operational hazards such as enemy action, terrorist activity or situations inherently connected with combat or war-like conditions. In those cases, the causative factors were integrally linked to the operational environment as contemplated under Categories 'D' or 'E'.

16. The present case, however, stands on a materially different footing. The death occurred due to a road accident involving a civilian vehicle during convoy movement undertaken for logistical purposes, namely Annual Winter Stocking. There is no material to indicate any element of enemy action, terrorist involvement, or war-like situation. The immediate and proximate cause of death remains a traffic accident, which is expressly covered under Category 'C', i.e., "accidents while travelling on duty in Government vehicles."

17. The contention of the applicant that mere occurrence of the incident in an operational area would suffice to bring the case within the ambit of para (iv) of Army Order 1/2003/MP cannot be accepted. The expression "occurring in action" must be construed to denote a live and proximate connection with operational or combat-related circumstances. Acceptance of the

applicant's interpretation would obliterate the distinction between Categories 'C', 'D' and 'E' rendering the policy framework nugatory by treating every accident in an operational area as a "Battle Casualty," which is clearly not the legislative intent. The precedents relied upon by the applicant do not lay down any absolute proposition that every death in a counter insurgency or operational area must ipso facto be treated as a "Battle Casualty." On the contrary, they consistently underscore that classification depends upon the nature of the accident and its causal nexus with operational exigencies, an essential element which is conspicuously absent in the present case.


18. It is also evident that the competent authority has duly considered the matter and consciously declined re-classification. The initial contemporaneous report, which carries significant evidentiary weight, unequivocally categorizes the incident as an accidental road mishap. The subsequent recommendation dated 25.07.2017 does not introduce any new or compelling material capable of altering the foundational character of the incident. The cases cited by the applicant, where re-classification was directed, turned on distinct facts involving

demonstrable operational linkage or procedural infirmities, which are not present herein. Accordingly, we find that the judgments relied upon by the applicant are clearly distinguishable both on facts and in their application to the governing policy and do not justify interference with the decision of the respondents.

19. In view of the foregoing discussion, we arrive at the conclusions that the death of the deceased squarely falls within Category 'C' and not under Categories 'D' or 'E', that there is no proximate nexus with operational or combat-related circumstances to warrant classification as a "Battle Casualty", that the respondents have acted in accordance with the applicable policy and upon due application of mind and that the judgments relied upon by the applicant are distinguishable and do not advance the claim for LFP.

20. The claim of the applicant for grant of Liberalized Family Pension is, therefore, devoid of merit and stands rejected. The OA is dismissed. No order as to costs.

Pronounced in the open Court on this 16th day of April, 2026.


[RASIKA CHAUBE]
MEMBER (A)


[JUSTICE NANDITA DUBEY]
MEMBER (J)

/vks/Alex/