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Form No. 4  
{See rule 11(1)}  
ORDER SHEET  
ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI  
E-Court

23. O.A. No. 5 of 2018

**Mrs. Babita Babu Narale**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><b><u>26.07.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>Heard Mr. S.K. Chinchalikar, Ld. Counsel for the applicant and Mr. Rishi Ashok, Advocate instructed by Mr. B.K. Ashok, Ld. Counsel for the respondents.</p> <p>Original Application is <b>allowed</b>.</p> <p>For order, see our Judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"><div style="text-align: center;"><p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p></div><div style="text-align: center;"><p>(Justice Umesh Chandra Srivastava) Member (J)</p></div></div> <p>AKD/SB/-</p>

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
MUMBAI**

**ORIGINAL APPLICATION No. 5 of 2018**

Tuesday, this the 26<sup>th</sup> day of July, 2022

**"Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)"**

Mrs. Babita Bapu Narale W/o Late No. 10387990A Sep  
R/o Village-Pimpalwadi, Post-Nangole, Tehsil-Kavathe,  
Mahankal, Dist-Sangli (Maharashtra).

..... Applicant

Ld. Counsel for the : **Shri S.K. Chinchalikar**, Advocate.  
Applicant

Versus

1. Union of India, Ministry of Defence, Through its Secretary New Delhi.
2. Officer-in-charge Records, Artillery Records, Pin - 908802 C/o 56 APO.
3. The Principal Controller of Defence Accounts (Pension) Draupadi Ghat, Allahabad (U.P) -211014.

.....Respondents

Ld. Counsel for the : **Shri BK Ashok**, Advocate  
Respondents. Central Govt. Counsel

**ORDER (Oral)**

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs :-

- (a) This Hon'ble Court be pleased to order directing the Respondents to grant Dual Family pension under the Rules of the Pension Regulation of the Army, 1961 (Part-I).*
- (b) This Hon'ble Court be pleased to set aside the impugned order dated 13<sup>th</sup> July 2017 passed by Respondent No.3.*
- (c) Cost of this appeal be granted.*
- (d) Such other and equitable order as the circumstances of the case may be granted.*

2. Brief facts of the case are that husband of the applicant was enrolled in 108 Infantry Battalion (Territorial Army) on 29.06.1967 and was discharged from service w.e.f. 31.08.1975 (AN) having rendered 08 years and 02 months service. He was re-enrolled in the Army (Regiment of Artillery) on 01.09.1975 and discharged from service w.e.f. 29.02.1984 at his own request having rendered 09 years and 05 months service. While being enrolled in Regiment of Artillery, his former service rendered in Territorial Army was considered for calculation of service pension and he was granted service pension



vide PPO No. S/C/7090/1984. After discharge from Army he was re-enrolled in Defence Security Corps (DSC) on 21.12.1984 and he opted not to count his former Army service towards DSC and continued to draw service pension from Army. During the course of his service he died on 28.02.1992 and accordingly, Special Family Pension was granted to the applicant vide PPO No. F/999/92. Grievance of the applicant is that she ought to be paid dual family pension, which the respondents have denied, hence this O.A.

3. Learned counsel for the applicant submitted that applicant's husband was in receipt of service pension while serving in DSC and that is the reason she is entitled to receive family pension from Army after her husband's death. He further submitted that though she is in receipt of family pension for her husband's services rendered in DSC but she has been denied family pension from Army which is against Pension Regulations for the Army, 1961 (Part-I). He submitted that against non grant of family pension a legal notice dated 01.08.2016 was forwarded to the Records which was replied vide letter dated 27.08.2016 intimating that since she was already in receipt of Special Family Pension, she is not entitled to

Ordinary Family Pension from Army after her husband's death. It was also stated that a case has been taken up with CGDA for clarification with regard to grant of dual family pension for those who have been granted Special/Liberalised Family Pension and the outcome is still awaited. Thereafter, a mercy petition dated 02.02.2017 was also forwarded through her Advocate which was replied vide letter dated 13.02.2017 repeating previous story that the case in this regard has been taken up with the Competent Authority but reply is still awaited. The learned counsel further submitted that inspite of repeated requests and reminders to the respondents for grant of dual family pension to the applicant, the respondents are delaying and avoiding the genuine claim for no reason and therefore, the applicant is deprived of her fundamental rights to have dual family pension. It was also submitted that consequent upon various correspondences, PCDA (P), Allahabad vide letter dated 13.07.2017 has also stated that clarification with regard to grant of dual family pension is still awaited from MoD. He pleaded for grant of dual family pension to the applicant.

4. On the other hand, learned counsel for the respondents submitted that applicant's husband was in



receipt of service pension from Army when he was re-enrolled in DSC on 21.12.1984. He further submitted that while in service husband of the applicant died on 28.02.1992 and accordingly, applicant was granted Special Family Pension vide PPO No F/999/92. His submission is that the competent authority i.e. PCDA (P), Allahabad is not accepting the claim for grant of dual family pension to applicant and as per them a case has already been taken up with Controller General of Defence Accounts, New Delhi for clarification regarding admissibility of dual family pension for those family pensioners who have been granted Special/Liberalized Family Pension. His submission is that since clarification with regard to grant of dual family pension has not been received from the authorities concerned, applicant has not been sanctioned/granted dual family pension.

5. Learned counsel for the respondents further submitted that as per Integrated Headquarters, Min of Def (Army) letter dated 17.01.2013 there is no provision for grant of Ordinary Family Pension in addition to Special Family Pension. He further submitted that instead of waiting for decision/clarification, the applicant has filed this O.A. for grant of dual family pension and the Hon'ble

Tribunal may pass an appropriate order as deemed fit according to the facts and circumstances of the case.

6. Heard Shri SK Chinchalikar, learned counsel for the applicant and Shri Rishi Ashok, Advocate holding brief for Shri BK Ashok, learned counsel for the respondents and perused the records.

7. No 10387990A late Bapu Narale was enrolled in 108 Infantry Battalion Territorial Army (TA) on 29.06.1967 and discharged from TA service w.e.f. 31.08.1975 (AN) under the provision of TA Rule 14 (b) (iii) read in conjunction with Regulation 126 (b) of TA Regulations 1948. He was re-enrolled in the Army on 01.09.1975 and discharged from service on 29.02.1984. He was granted service pension vide PPO No S/C/7090/1984. After re-enrolment in the DSC he opted not to count his former service towards DSC and continued to draw his service pension from Army. On 28.02.1992, while in service, he died and accordingly Special Family Pension was granted to his wife vide PPO No F/999/92 which she is in receipt of.

8. After her husband's death applicant submitted claim for grant of Ordinary Family Pension from Army side which when denied, applicant started writing to the respondents



and finally a legal notice dated 01.08.2016 was also served. In response to legal notice she was informed that a case has been taken up with the competent authority seeking clarification for grant of dual family pension.

9. We find that clarification for grant of dual family pension has been issued vide Govt of India, Min of Def letter dated 08.07.2019 and on this authority PCDA (P), Allahabad has issued Circular No 626 dated 19.08.2019, which for convenience sake, is reproduced as under:-

*"IMPLEMENTATION OF THE GOVT DECISION  
REGARDING GRANT OF DUAL FAMILY PENSION I.E.  
ORDINARY FAMILY PENSION (OFG) FROM MILITARY  
SERVICE AS WELL AS SPECIAL FAMILY PENSION  
(SFP)/LIBERALISED FAMILY PENSION (LFP) FOR RE-  
EMPLOYED MILITARY SERVICE*

1. As per GoI, MoD letter No 01 (05)/2010-D(Pen/policy) dated 17.01.2013 (Cir No 504 dated 17.01.2013), it was decided that the families of Armed Forces Personnel who got re-employed in Civil Departments/PSUs/Autonomous Bodies/Local Funds of Central/State Governments after getting retired from military service and were in receipt of military pension till death, shall be allowed to draw Ordinary Family Pension w.e.f. 24.09.2012 from military side in addition to the family pension, if any, authorised from the re-employed civil department subject to fulfilment of other prescribed conditions as hitherto.

2. It was further clarified vide GoI, MoD letter No 10(17)/2012-D (Pen/Pol) dated 21.03.2013 (Cir No 513 dated 19.07.2013) that the dual family pension is allowable irrespective of whether re-employment was in civil or military department and family pensioners of DSC/TA personnel are also covered in the ambit of the GoI, MoD letter No 01 (05)/2010-D (Pen/Policy) dated 17.01.2013.

3. The issue regarding extending the admissibility of SFP/LFT as dual family pension in case of death attributable to military service is under consideration to



*Govt. It is now clarified vide Govt of India, Ministry of Defence letter No PC-2(6)/2013-D (Pen/Pol) dated 08.07.2019 that the provision of two family pensions, one in respect of military/civil service and SFP/LFP for re-employed military service is also applicable. SFP/LFP if any, would be admissible in terms of GoI, MoD letter No 1(2)/97/D(Pen-C) dated 31.01.2001 on death of a person who was re-employed in military service and if his death is attributable to military service, in addition to ordinary family pension in respect of the previous military/civil service with following conditions:-*

*(i) Where, however, on death of the re-employed ex-serviceman if the family is eligible for SFP/LFP for first service family pension for second spell of service would be OFP.*

*(ii) Special Family Pension/Liberalised Family Pension shall be granted only in respect of one service and in no case, SFP/LFP will be granted for both the services".*

10. Thus, from the aforesaid it is abundantly clear that Ordinary Family Pension is admissible along with Special Family Pension/Liberalised Family Pension but NOK of a deceased soldier is not entitled to receive two Special Family Pension/Liberalised Family Pension from two departments. In the instant case applicant was granted Special Family Pension after death of her husband during DSC service and claim of Ordinary Family Pension from military side was denied, which as per policy letter dated 08.07.2019 she is entitled to receive.

11. In view of the above we hold that the applicant is entitled to receive dual family pension.

12. The O.A. is allowed.

13. Impugned order dated 13.07.2017 passed by respondent No 3 is set aside. The respondents are directed to grant Ordinary Family Pension to the applicant within four months from today w.e.f. the next date of death of her husband, but due to law of limitation arrears are restricted to three years prior to filing of this O.A. which was filed on 05.02.2018. Default will invite interest @ 8% p.a.

14. No order as to costs.

15. Miscellaneous applications, pending if any, stand disposed of.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated : 26.07.2022  
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