

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.62/1385/2017 Date of decision: 15.01.2020
M.A. No.62/798/2018

...

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

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Misra Bano, aged 55 years, Wd/o late MES No.503082, Ali Mohd. Hajam S/o Sh. Gulam Mohd. Hajam, R/o Village Soiteng, Tehsil Chandoor, Distt. Budgam, Siri Nagar, J&K-191101. (Group D)

...APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Defence, Army HQ, New Delhi-110011.
2. The Engineer in Chief, Army HQ, Sena Bhawan, Rajaji Marg, New Delhi-110011.
3. The Chief Engineer, Northern Command, Udhampur C/o 56 APO PIN-908545.
4. Chief Engineer, HQ 31 Zone, C/o 56 APO, PIN-914631.
5. Commander Works Engineer, HQ, 133 WE, C/o 56 APO, PIN-914133.
6. The Garrison Engineer, 864 EWS C/o 56 APO, PIN-914864.
7. Principal Controller of Defence Accounts (Pension), Allahabad.

...RESPONDENTS

PRESENT: Sh. Shailendra Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.



ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Learned counsel for the applicant submitted that the case of the applicant is squarely covered by decision dated 19.2.2019 of this Court in the case of Misra Bano wd/o late Sh. Mohd. Maqbool Bhat, who was also injured and died in a mine blast along with husband of present applicant. Both the widows approached this Court by filing O.A. and while one case i.e. O.A. No.62/132/2018 (**Misra Bano vs. UOI & Ors.**) has been allowed, this case is pending though both are identical. Hence, he prayed that this O.A. may be allowed in the same terms as in the case of Misra Bano (supra).
2. Learned counsel for the respondents is not in a position to dispute the statement made by learned counsel for the applicant.
3. Accordingly, present O.A. is allowed in the same terms as in the case of Misra Bano (supra), relevant paras of which read as under:-

1. As per Annexure A-5 LPS is awarded in the case of death or disability attributable to acts of violence by terrorists, anti-social elements, etc. This was made applicable w.e.f. 1.1.1986. Though the instructions were modified subsequently on 9.4.1999 and 3.2.2000 but the main purpose of this policy by Govt. of India is to provide financial assistance to the wards of deceased employees who died in an accident while fighting for the nation. Clause 3(1)(d) under the head of 'Scope' reads as under:-



"Death or disability attributable to acts of violence by terrorists, anti-social elements, etc. whether in their performance of duties or otherwise. Apart from cases of death or injury sustained by personnel of the Central Police Organizations while employed in aid of the civil administration in quelling agitation, riots or revolt by demonstrators, other public servants including Police personnel, etc., bomb blast in public places or transport, indiscriminate shooting incidents, in public etc., would be covered under this category."

2. Perusal of the above extracted clause makes it clear that no distinction is carved out by the competent authority while granting liberalized pension as to the date of death or on active duty. It is not only admissible to those employees who are on active duty, rather it makes it clear that whether death takes place in their performance of duties or otherwise, therefore, view taken by the respondents that the applicant was not on active duty and thus his widow is not entitled to benefit cannot be approved. The pleadings also suggest that there are various references by the concerned quarter to higher authorities for grant of LPS to applicant on loss of her husband in a mine blast, but the respondents did not bother to settle those cases where the family lost its bread earner in a militant attack while fighting for the nation despite there being a policy on the subject by the competent authorities.

3. In the light of above, we are left with no option but to quash the impugned order and direct the respondents to grant family pension to the applicant under the said scheme immediately from the date she became entitled and arrears so calculated be also disbursed to her within one month thereafter."

4. M.A. No.62/798/2018 also stands disposed of.

No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 15.01.2020.

Place: Chandigarh.

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