

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

DIARY NUMBER 2137 OF 2002

IN
ORIGINAL APPLICATION NUMBER 1339 OF 2002FRIDAY, THIS THE 1st DAY OF NOVEMBER, 2002HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

1. Smt. Suraj Mukhi, widow of Late Hawaldar Phool Singh No.1219170.
2. Brijesh Kumar, son of Phool Singh;
3. Satendra Kumar, son of Phool Singh;
All resident of Village Mohamadpur,
Post Office Bhishi Mirzapur,
Tehsil Secandara Rao,
District- Hathras, U.P.

....Applicants

Counsel for the Applicants Shri A. Mishra

V E R S U S

1. Union of India through Secretary,
Ministry of Defence,
New Delhi.
2. Senior Record Officer,
Topkhana Abhilekh,
Artillery Records Nasik Road,
Camp-422102.
3. Branch Recuting Officer,
Agra Cantt. U.P.
4. The PC. D.A. (P) Grants 4 Section,
Allahabad.

....Respondents

Counsel for the Respondents Shri R.C. Joshi

O R D E R

Hon'ble Mrs. Meera Chhibber, Member (J)

The O.A. has been filed by the applicants seeking quashing of the order dated 30.01.2002 by which the request of Smt. Suraj Mukhi for family pension has been rejected on the ground that late Hawaldar Phool Singh had contracted the 2nd marriage with her during the life time of 1st wife Smt. Dagshree that too without obtaining any formal divorce from a court of law therefore, her marriage is null and



....2/-

void as per Hindu Marriage Act as such she is not entitled to family pension. Her children from Late Hawaldar Phool Singh were held to be ~~eligible~~ for family pension but they had also become dis-qualified as they have crossed 21 years of age. The averments made by the applicants in para-4.1 of the O.A. show that the husband and father of the applicants, Late Shri Phool Singh was Hawaldar No. 1219170 in the regiment of Artillery and was discharged from service on March 1987. The impugned order is also issued by Artillery records and applicants husband had been assigned No. which shows Late Shri Phool Singh was a member of the Armed force. It would be relevant to refer to section-2 of A.T. Act, 1985 which for ready reference reads as under:-

"Act not to apply to certain persons— The provisions of this Act shall not apply to—

(a) any member of the naval, military or air forces or of any other armed force of the Union."

2. In view of the above, the present O.A. is not maintainable in the Tribunal. The remedy, if any, of the applicants lies before the Hon'ble High Court of Allahabad. Accordingly, the O.A. is dismissed as not maintainable. The applicants shall be at liberty to file the case before appropriate forum as advised by their counsel. The registry is directed to return the extra copies of O.A. to the applicants counsel after retaining one copy for the purpose of maintaining the records. O.A. is dismissed as not maintainable.


Member (J)

shukla/-