

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1048 of 2006

Allahabad this the 27th day of April 2012

Hon'ble Mr. Shashi Prakash, Member-A

Angoori Devi (Smt.), aged about 75 years, W/o 20759 Late GDR Amar Singh, R/o Village Sunari, P.O. Bichpuri, District Agra.

Applicant

By Advocate: Mr. K.K. Mishra

Vs.

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. Major, Officer in Charge Records, The GRENADIERS Records, Jabalpur (M.P.) C/o 56 A.P.O.
3. Chief Treasurer, Pension Collectorate, Agra.

Respondents

By Advocate: Mr. N.C. Nishad

O R D E R

Delivered by Hon'ble Mr. Shashi Prakash, A.M.

By filing this O.A., applicant has sought the following relief

(s): -

(i) *That this Hon'ble Court may graciously be pleased to quash and set-aside the impugned communications dated 28 Feb. 2006 and 18 May 2006, Annexure A-3 and Annexure A-7 to this Application issued by respondent No. 2.*

(ii) *That this Hon'ble Court further be pleased to direct to refund the amount of one Family Pension pertaining to Military Service.*

And further be pleased to direct the respondent no. 2 to pay family pension to the Applicant regularly in respect of pension Account No. 01190013057 pertaining to P.P.O. No. C/IND/Pro/6226/77 dated 25.1.1978.

6

(iii) *That this Hon'ble Court may graciously be pleased to pass such other and/or further order as may be deemed necessary in the circumstances of the case.*

(iv) *Award Cost."*

2. Briefly stated, the facts of the case are that the applicant's husband was a military pensioner, who on retirement from military service was re-employed on a civil post in C.O.D., Agra. After retirement from C.O.D., Agra, the applicant was getting two pensions during his life time. The applicant's husband died in 1987, and since June, 1987, applicant has been sanctioned family pension for both the services under separate P.P.O. issued by the Controller of Defence Accounts (Pensions). The applicant submitted that after a gap of 19 years, it came to the knowledge of respondent No. 3 that the applicant is getting two family pensions, which is not permissible under the rules and, as such, respondent No. 3 wrote a letter dated 02.02.2006 to the Branch Manager, State Bank of India, Bichpuri Branch, Agra disclosing the aforesaid mistake. By the letter dated 14.02.2006, the Branch Manager, State Bank of India informed the applicant that the respondent No. 3 has directed for not paying family pension to her and Rs.2,85,375.00 was directed to be recovered from the applicant. The respondent No.2 wrote a letter dated 28.02.2006 to respondent No. 3 intimating him to take option from the applicant whether she would like to draw family pension from C.O.D. Agra or from Army, and also to stop one family pension. The applicant submitted her reply on 13.03.2006 stating therein that there was no fault on her part in getting two family pensions. The applicant also sent a reminder on 21.04.2006 with the request

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to continue her family pension, pertaining to Army services of her husband. The respondent No. 2 wrote a letter to the Branch Manager, S.B.I., Bichpuri Branch, Agra that the applicant has given her consent for taking her family pension from Army hence family pension from Army be paid to her with adjustment of Rs.2,85,375.00. Thereafter, applicant made representations and reminders but she has not been paid the family pension hence, the present O.A.

3. The respondents have filed the Counter Affidavits, mainly alleging that the applicant by concealing the facts and knowingly the applicant had been getting two family pensions hence, the action taken by the respondents was just and proper. The respondents further submitted that the applicant was given option to choose the department from which she wanted to get the family pension, and thereafter applicant gave the option to get the family pension from Army. The recovery of ₹ 2,85,375.00 is just and proper, as per the respondents. Hence, they claimed that the O.A. is liable to be dismissed.

4. The applicant has also filed the Rejoinder Affidavit denying the allegations leveled against her by the respondents in their Counter Affidavits. However, she has reiterated the facts, as contended in the O.A.

5. Heard, Sri K.K. Mishra, Counsel for the applicant and Sri N.C. Nishad, Counsel for the respondents, and perused the pleadings in the O.A.

8

6. The main relief sought by the applicant is to direct the respondents to continue pay her family pension pertaining to Army services, rendered by applicant's husband, and also to direct the respondents to pay arrears from the date the family pension was stopped till the date of its commencement in the year 2011. Counsel for the respondents stated that the relief sought by the applicant has already been granted to her by the respondents vide order dated 10.08.2011 (copy of the order is annexed as annexure-4 with Compliance Affidavit), wherein it was mentioned that the family pension of the applicant has been restored w.e.f. April, 2011, and for payment of arrears of her family pension at the earliest. Hence, the respondents alleged that the O.A. has become infructuous. Under the circumstances, there does not appear to be any necessity to issue any direction by the Tribunal.

7. In view of the above facts and circumstances, the O.A. stands disposed of with direction to the respondents to ensure payment of arrears of the family pension, as stated in the order dated 10.08.2011, pertaining to Army, within a period of two months from the date of receipt of a copy of this Order. No cost.


Member-A

/M.M/