

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No. 180/2005**

this the 9<sup>th</sup> day of June, 2006

**Hon'ble Shri M. Kanthaiah, Member (J)**

Smt. Gulab Devi, aged about 53 year widow of late Chhotey lal, resident of 347/147, Bairagi Tola, Old Tikaitganj, District- Lucknow.

..Applicant

By Advocate: Shri S.K.S. Kalhan

**Versus**

1. Union of India through General Manager, Baroda House, New Delhi.
2. Senior Personnel Officer, Northern Railway, Baroda House, New Delhi.
3. Deputy Chief Mechanical Engineer (W) Carriage and Wagon Workshop, Alambagh, Lucknow.
4. Office-in-Charge, Air Force Record, Office, New Delhi.

..Opposite Parties

By Advocate: Shri Arvind Kumar for Respondent No. 1 to 3  
Shri S.P.Singh for Respondent No. 4

**ORDER (ORAL)**

**By Hon'ble Shri M. Kanthaiah, Member (J)**

The petitioner has filed the petition under section 19 of the AT Act, 1985 for issue of necessary direction to the respondents to sanction family pension from both the respondents for which she is entitled as the widow of the deceased Shri Chotey Lal with the following averment.

2. The petitioner is the wife of late Chhotey Lal who has joined the Railways in 2.1.1991 as Fitter Grade II and died while in service on 19.5.2002. He served in the railways for 11 years 3 months and 17 days for which he is eligible for pension. Prior to his employment in the Railways, he worked in the Military Services from 10.11.1964 to 30.11.1985 which is more than 21 years of service. After his re-employment in the Railways, the deceased Chhotey Lal had opted the military pension as admissible under the charge from military services. As such, he was sanctioned pension by respondent No.4 w.e.f. 1.2.1995. The said pension certificate and Pension

Payment Order issued by Air Force ~~provides~~ <sup>reveals</sup> that the petitioner shall be entitled to Rs. 200/- per month being the family pension following the date of death of ~~the petitioner~~ <sup>her husband</sup> along with 115% as the dearness relief. The deceased who completed qualifying service both in the military as well as in the Railways and as such he ~~was~~ <sup>is</sup> entitled for family pension from both the department but after the death of her husband, <sup>the</sup> ~~petitioner~~ made representation to the respondents for release of family pension, both the respondents i.e. Military and also Railway Department, however, refused to pay the family pension. As per rule 19 of the Central Civil Services (Pension) Rules 1972, the petitioner is entitled for family pension from both the Departments. Hence filed this petition.

3. Respondents No. 1 to 3 have not filed any counter/reply.

4. Respondent No. 4 filed counter/reply stating that the applicant is eligible for family pension from Indian Air Force but she never approached the office claiming such pension. He also further stated that he never denied family pension to the applicant. Now they came to know that the husband of the petitioner was re-employed in the Railways and as such she cannot claim family pension from both the Department and she has to submit certificate from the railways that she is not getting pension from the Railway Department. Thus the respondents opposed the petition.

5. Heard both the sides.

6. The point for consideration is whether petitioner is entitled for family pension. <sup>7</sup> The admitted facts of the case are that the petitioner is the wife of the deceased Chhotey Lal who worked in Indian Air Force from 10.11.1964 to 30.11.1985 for a period of more than 21 years in the rank of Sergeant, his trade was F ii E. <sup>and after retirement,</sup> Upon which the Indian Air Force had already sanctioned pension to him w.e.f. 1.12.1985 and on his death, the petitioner is entitled for such pension amount. The petitioner also filed documents i.e. service particulars issued by Air Force and also pension certificate a Annexure 4. It is also not in dispute that after retirement from military service, the husband of the petitioner also re-employed in railways

in the office of Respondent No.1,2 and 3 and at that time, he opted the ~~family pension~~ from military pension as admissible on the discharge from military service but after the death of the deceased, both the respondents are not paying family pension to the petitioner. It is also not disputed that <sup>the</sup> petitioner made application for grant of family pension before the respondent No. 1 to 3 on 4.1.2003 under Annexure 13, upon which they conducted enquiry and passed orders on 18.1.2003 under Annexure 1 stating that her husband has retired from military service and he opted family pension from the Military and as such they have advised the petitioner to approach the ~~opposite party~~ Respondent No. 4 for release of family pension payable to her husband. From the recital of the petition <sup>also</sup>, it is clear that the husband of the petitioner made such option before the respondent No. 1,2 and 3. Thereafter, the petitioner made representation to Air Force under Annexure A-15 dated 21.2.2004 requesting them to release family pension payable to her deceased husband but ~~upon the said representation~~, no orders have been passed by the respondent No. 4 upon which the petitioner approached this Tribunal for necessary direction.

7. From the order covered under Annexure -1 dated 18.1.2003, it is clear that the respondents No.1,2 and 3 did not <sup>pay</sup> ~~paid~~ any family pension to the petitioner and further they advised the petitioner to approach the opposite party No. 4 on the ground that her deceased husband opted family pension through Respondent No. 4 only. Based on such orders, the petitioner also approached the ~~opposite party~~ Respondent No. 4 by making representation covered under Annexure 15 dated 21.3.2004 for release of family pension to her which is payable to her late husband. When there was such direction from the respondents No.1,2 and 3 informing that the deceased opted family pension from the 4<sup>th</sup> respondent and in view of the such circumstances, respondent No. 4 is the proper person to release family pension to the petitioner. Admittedly, the petitioner's husband Chhotey Lal died on 19.5.2002 while he was in the service of Railways and even after lapse of 4 years, the family pension of the petitioner is not at all released <sup>but they were not passing any orders.</sup>

by concerned authorities which is very unfortunate situation. In view of the above circumstances, Respondent No. 4 is directed to consider the application of the petitioner dated 21.2.2003 Annexure -15 for grant of family pension which is payable to her within 2 months from the date of this order.

8. With this direction, petition is allowed with no order as to costs.

  
(M. Kanthaiah)

Member (J)

9-6-06

HLS/-