

**Reserved**

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/00395/2016**

Jabalpur, this Friday, the 18th day of May, 2018

**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Smt. Badrun Nisha, W/o Jamil Ansari, Housewife,  
Aged about 61 yrs. R/o Choti Madar Tekri,  
I/f Darulum Ashfaquallah Ward, Jabalpur (MP)-482005 -**Applicant**

**(By Advocate –Shri H.R.Bharti)**

**V e r s u s**

1.Union of India, through Secretary,  
Ministry of Defense Service, New Delhi-110001

2. Director General, Ordinance Services against Chief of  
Ordinance Branch, Integrated Headquarter, MoD, Army,  
New Delhi-110011

3. Commandant, Central Ordinance Depot,  
Jabalpur, pin-908772 (Army), Jabalpur-482005 - **Respondents**

**(By Advocate –Shri Pramod Chourasia)**

(Date of reserving the order:-16.05.2018)

**O R D E R**

**By Ramesh Singh Thakur, JM**

This Original Application has been filed against the order dated 01.02.2016 (Annexure A-1), whereby the applicant has been advised by the respondents to obtain the willingness of Smt.

Sakina Bee for sharing of her 50% family pension in favour of the applicant, who is a legal widow of Late Shri Jamil Ansari.

2. The applicant has sought for the following relief in this

Original Application:-

“8(8.1) That, may kindly be give direction to the respondent for provide 50 percent of family pension to the applicant with issuing by the fresh PPO in favour of applicant and be quash Annexure A-1 it will be much appropriate justice in favour of applicant.

(8.2) Any other relief is sought if this Hon’ble Court deems fit and appropriate may kindly be also awarded in favour of the applicant.”

3. Precisely the case of the applicant is that the applicant’s husband was an employee as a Leather Stitcher. The husband of the applicant died on 29.11.2009 leaving behind widow alongwith three sons. During the life time of deceased employee there was no nomination of the applicant in service record of the deceased. On death of Late Shri Jamil Ansari the applicant approached the respondents for the purpose of providing their settlement dues. The applicant was told that because there is no any nomination. Resultantly the applicant approached Civil Court for the purpose of obtaining declaration as a wife of deceased. Ultimately the Civil Case No. 92/2010 was passed by the competent court of law on 18.03.2013 and the applicant was held as legally wedded wife of the deceased.

4. That, after obtaining decree the applicant approached the respondents and vide letter dated 23.09.2015, the Deputy Director OS(Pers) for DGOS has written a letter to respondent No.1, a copy of which is annexed as Annexure A-4. Thereafter as per Annexure A-5 19.10.2015 CSO Personnel Officer (Civil) has written a letter to respondent No.2 regarding the grant of family pension to the applicant. Thereafter, vide Annexure A-6 dated 01.01.2016 the applicants was informed by the respondent department and advised to submit willingness certificate from Smt. Sakina Bee for sharing of 50% family pension in favour of the applicant.

5. The replying respondents have filed their short reply and it has been submitted by the replying respondents that Late Shri Jamil Ansari was superannuated on 30.06.2009 and died on 39.11.2009. During the service period the name of Smt. Sakina Bee as his legal wife was entered. Thereafter the applicant has filed Civil Suit before the Civil Court Jabalpur with the request for grant of gratuity, GPF, Insurance, Leave encashment and other allowances.

6. It was further submitted by the replying respondents that Hon'ble Court after considering the facts and circumstances and evidence taken on record was pleased to declare the applicant as legally wedded wife of Late Jamil Ansari. Further with regard to

pension the Hon'ble Court has given liberty to the respondents to take appropriate decision as per government policy and rules.

7. It has been specifically submitted by the respondents that the name of Smt. Sakina Bee, first wife of Late Jamil Ansair for grant of family pension as well as financial benefits was endorsed in the nomination form and in the service book. Accordingly, family pension was granted to Smt. Sakina Bee. Thereafter the Hon'ble Court has declared the applicant as legally wedded wife of Late Jamil Ansari. So the answering respondents after perusing the facts and orders of the case has referred the matter to IHQ of MoD (Army) for necessary action vide letter dated 10.06.2013. Thereafter, further direction of IHQ vide letter dated 20.06.2013 has been received for taking action as per Central Civil Services (Pension) Rules, 1972. The replying respondents has forwarded the case regarding the distribution of family pension between both wives (equal share of pension i.e. 50%) to CDA (Pension), Allahabad for issuing PPO, however, the CDA (P) Allahabad returned the claim vide letter dated 05.09.2014 with a remark that sanction of Government of India may be obtained to reduce the pension of 50% in respect of Smt. Sakina Bee and release the rest of 50% in favour of the applicant. A letter dated 28.11.2014 has been forwarded to IHQ, MoD (Army) to obtain necessary sanction

to release 50% share of the pension in favour of the applicant and reduce 50% of pension in respect of Smt. Sakina Bee. It is further submitted by the replying respondents that Smt. Sakina Bee has submitted a letter dated 03.03.2016 whereby it is stated that after a perusal of judgment passed by Civil Court dated 18.03.2013, Smt. Sakina Bee is intend to challenge the said judgment in the appropriate proceeding and refuse to share 50% of family pension with the applicant.

**8.** We have heard the learned counsel for the parties and carefully gone through the pleadings and the documents available on record.

**9.** It is admitted fact that earlier Smt. Sakina Bee was entered as a wife in the service record of the deceased employee. It is also admitted fact that the applicant has filed an application before the replying respondents for granting the settlement dues after the death of her husband. It is also admitted fact that the applicant has filed the Civil Suit before the competent court of law and the learned Civil Court has passed the judgment as per Annexure A-3 dated 18.03.2013 and the applicant was declared as legally wedded wife of Late Jamil Ansari.

**10.** It is pertinent to mention that Smt. Sakina Bee was also defendant in the said Civil Suit along with the replying

respondents. It is also admitted by the replying respondents that vide Annexure A-4 & A-5 the case of the applicant was forwarded to the Higher Authorities for sanction of 50% of family pension to the applicant under Rule 7(a)(i) of Rule 54 of CCS(Pension)Rules, 1972, “where the family pension is payable to more widow than one, the family pension shall be paid to the widows in equal share.” It is also admitted fact that replying respondents as per Annexure A-6 has issued a letter to the applicant for submitting willingness from Smt. Sakina Bee for sharing 50% of family pension in favour of the applicant.

**11.** The only dispute in the instant case is that whether the willingness of Smt. Sakina Bee is required as per law. As per Section 54 Rule 7(a)(i) of CCS (Pension) Rules, 1972 which reads as under:-

“Where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal share.”

**12.** It does not speak about the willingness of any of the party. It is crystal clear that as per Annexure A-3 the Competent Court of law has declared the applicant as legally wedded wife, the family pension is to be paid to th0e legally wedded wife. Moreover, Smt. Sakina Bee was also defendant in the said Civil Suit. It is also clear from the reply of the replying respondents that the replying

respondents has issued letter to Smt. Sakina Bee but she has refused to part with 50% share of the family pension and it has been submitted by the replying respondents that Smt. Sakina Bee has replied of the fact that she want to challenge the judgment of the Civil Court in appropriate proceedings.

**13.** It is pertinent to mention that till date the judgment passed by the Competent Court on 18.03.2013 has not been challenged before any court of law and as per pleadings no such notice has been received by the applicant and also by the replying respondents.

**14.** So the judgment of the learned Civil Court has attained the finality. In view of the above the Annexure A-6 dated 01.01.2016 passed by the replying respondents are quashed and set aside to the extent of procuring the willingness from Smt. Sakina Bee. The respondent department is directed to pay the family pension/equal share of pension i.e. 50% to the applicant, within a period of 60 days after receiving a copy of this order. No costs.

**(Ramesh Singh Thakur)**  
**Judicial Member**  
rn

**(Navin Tandon)**  
**Administrative Member**