

**IN THE ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI**

OA-30 of 2017

PRESENT

**HON`BLE DR. (MRS) JUSTICE INDIRA SHAH, MEMBER (J)
HON`BLE LT GEN GAUTAM MOORTHY, MEMBER (A)**

**Smti Sarmistha Sharma
W/o No. 59190 PO(STD) Late Nanda Gopal Sharma
R/O Lower Arbuthnot Road, Demseiniong,
Laitumukhrah Shillong,
East Khasi Hills District,
Meghalaya**

..... Applicant

By legal practitioners for
Applicant.

Mr. H.R. Nath, Advocate

-VERSUS-

- 1. Union of India,**
Represented by the Secretary,
Ministry of Defence,
Govt of India, New Delhi
- 2. Naval Pension Officer**
C/o INS Tanaji, Sion Trombay Road,
Mumbai-88
Maharashtra
- 3. The Command Regimental System Officer,**
C/O Navy Office, INS Netaji Subhash, 22 Naplar Road
Hasting, Kolkata, West Bengal
- 4. Principal Controller of Defence Accounts (Pensions),**
Draupadi Ghat, Allahabad, Uttar Pradesh
- 5. Principal Controller of Defence Accounts (Navy)**
Principal Cell No. 1,
Cooperage Road, Mumbai-39
- 6. Senior Staff Officer (Pension)**
C/o INS Tanaji, Sion Trombay Road,
Mumbai-88, Maharashtra
- 7. The Director, Sainik Welfare Meghalaya, Shillong**
East Khasi Hills District, Meghalaya
- 8. Zila Sainik Welfare Officer,**
Govt. of Meghalaya, Old Taxation Building,
Room No. 44, Shillong-01

..... Respondents

By Legal Practitioner for the
Respondents
Mr. N Baruah, CGSC

Date of Hearing : 11.06.2018

Date of Order : 11.06.2018

JUDGMENT & ORDER

(Per Lt Gen Gautam Moorthy, Member (A))

1. This case has been filed by the applicant under Section 14 & 15 of the AFT Act, 2007 who states that she is the widow of an ex-serviceman and further declares that the application is within the limitation period prescribed in Section 22 of the Act.

2. The brief facts of the case are that the applicant's husband namely the Late Nanda Gopal Sharma was serving in the Indian Navy from 13.07.1968 till his retirement on completion of full terms of engagement on 02.08.1983. The husband of the applicant was drawing regular pension after his discharge from service. He expired on 08.08.2012 leaving behind the petitioner and two children. Soon after the death of her husband, the applicant intimated the occurrence to Zila Sainik Board which then forwarded the death certificate along with other certificates to the OIC, Bureau of Sailors, Cheetah Camp, Mankhrud, Mumbai for necessary action to release family pension. The applicant further states that she received a letter along with family pension form directing her to fill up the same to submit to Zila Sainik Board. After submission of the same and correspondence between her and the OIC, Bureau of Sailors, Cheetah Camp, Mankhrud, Mumbai, Naval Pension Office observed some discrepancies. The main amongst which was that her name as noted in the document was "Gayatri Sharma" and not "Sarmistha Sharma". The applicant then clarified that Gayatri Sharma was her nick name and Sarmistha Sharma was her actual name and there is no ambiguity to this. She then placed her redresses before the Defence Pension Adalat held on 17.10.2014. The Adalat after examining the case of the applicant suggested to obtain a proper authentication from the District Magistrate/ Commissioner of the area in support of her claim. Accordingly, she approached the Deputy Commissioner, East Khasi Hills District, Maghalaya

who in turn after verification issued an authentication certificate certifying that the applicant is the genuine legal widow of the Late Nanda Gopal Sharma. The applicant also states that the Passport, Adhar Card, Voter ID Card, driving licence, Family Identity Card for APL indicate that she (Sarmistha Sharma) is the genuine legal widow of Late Nanda Gopal Sharma. In addition, she has executed a Personal Indemnity Bond dated 08.06.2018 to the effect that in the event of any other woman with the name of Gayatri is found to claim herself as the legal wife of Late Nanda Gopal Sharma, she undertakes to indemnify all and every family pension benefit granted in her favour.

3. Heard Mr. H.R. Nath, learned counsel appearing for the applicant and Mr. N. Baruah, learned CGSC, assisted by Capt Akash Vashishta, OIC Legal Cell, AFT, Guwahati appearing for the respondents.

4. In the earlier order of this Bench of AFT dated 09.06.2017, the respondents were directed to file a counter affidavit disclosing the reason as to why the family pension was not released in favour of the applicant despite the claim of the applicant that her identity has already been certified by the Deputy Commissioner, East Khasi Hills District as well as by the concerned Zila Sainik Board. The order also directed the respondents No. 7 & 8 to file respective affidavits relating to the enquiry, if any, conducted by them about the identity of the applicant.

5. Para 2 & 3 of the letter at Annexure-VIII, from Zila Sainik Welfare Officer is reproduced below –

"2. Extensive investigation has been carried out on the subject matter. Details reports from Police, locality Headman and various affidavits have been received and analysed by this office."

3. The findings are:-

(a) Smt "Gayatri" could be ascertained as the nickname of the widow Smt Sarmistha Sharma.

(b) Documents establishing the complete details of Smt Sarmistha Sharma are available.

(c) There is no other individual by the name of Smt Gayatri nor any document available with the environment. Physically, on ground also, there is no evidence of any other woman by the name of Smt "Gayatri" to whom the late ESM was ever married to.

(d) However, there is no possibility of ascertaining whose details or why the late Ex-serviceman has given completely different details of his spouse."

6. The Authentication Certificate at Annexure-IX signed by an Official for the Deputy Commissioner, East Khasi Hills District, Shillong verified

that Smti Sarmistha Sharma a resident of Demseiniong, Laitumkhrah, Shillong is the genuine legal widow of (L) Nanda Gopal Sharma based on the following original documents –

- (1) *Birth Certificates of their children, viz*
 - (a) *Nitasa (female) issued by the Chief Registrar, Govt. of Assam*
 - (b) *Rahul Kumar Sharma (male) issued by the Shillong Municipal Board.*
- (2) *Death certificate of Late Nanda Gopal Sharma issued by Sr. Medical & Health Officer-cum-Registrar of Birth & Death, I/c Rynjah State Dispensary, East Khasi Hills District, Shillong*
- (3) *Residential Certificate*
- (4) *Affidavit dated 05.07.2013 declaring marriage with Nanda Gopal Sharma*
- (5) *Adhar Card No. 475884637155*
- (6) *Electors Photo Identity Card No. LVR0531723*

(7) At this stage, the overwhelming evidence coupled with the Indemnity Bond filed by the applicant and based on the fact that no objection has been raised by the respondents, we are of the opinion that there is no necessity on insisting on the compliance order of 09.06.2017 as there is no doubt in our minds that Gayatri Sharma and Sarmistha Sharma are one and the same person.

(8) Hence, the respondents are directed to release the family pension to the applicant along with arrears from the date from which it was due to her. This order is to be complied with within a period of two months from the date of its receipt, failing which an interest @ 8% per annum will be levied on the arrears.

(9) The respondents are also directed to amend the name of the applicant in the PPO accordingly.

(10) No costs.

MEMBER (A)

MEMBER (J)