

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI****O.A.No.6 of 2020**

**Smt. Juthika Sinha  
W/O No.4352090X Late Naik Pradip Kr. Sinha  
Resident of Village- Hatirhar  
P.O.Srikona  
Dist-Cachar, Assam**

.....

**Applicant**

By legal practitioner  
for Applicant  
A.R. Tahbildar.

**Versus**

**1.Union of India,  
Represented by the Secretary,  
Ministry of Defence,  
Sena Bhawan, New Delhi-1**

**2.Records The Assam Regiment,  
Happy Valley, Shillong-793007.**

**3.Additional Directorate General,  
Personnel Services, PS-4(d),  
Adjutant General's Branch  
IHQ of MOD (Army),DHQ  
New Delhi.**

**4.The Principal Controller of Defence Accounts (Pensions),  
Allahabad, Uttar Pradesh, PIN-211014**

..... **Respondents**

By legal practitioner  
for Respondents  
P.K.Garodia, CGSC.

**CORAM:****HON'BLE MR. JUSTICE K.HARILAL, MEMBER (J)****HON'BLE AIR MARSHAL BALAKRISHNAN SURESH, MEMBER (A)****O R D E R****05.04.2024****(K.Harilal, J)**

Aggrieved by the rejection of the applicant's claim for restoration of ordinary family pension by the second respondent on the ground that the applicant's independent income after re-marriage is beyond the prescribed limit for granting ordinary family pension, she has preferred this O.A. and prayed mainly for an order directing the respondents to restore the grant of ordinary family pension to her with arrears.

2. The applicant, Juthika Sinha is the widow of Naik No.4352090X Pradip Kr. Sinha, who passed away on 23.12.1992 leaving behind the applicant. The couple had no children. At the time of his death, the applicant's husband completed 15 years of colour service and 2 years of reserve service. After his death, the applicant was duly granted family pension with effect from 24.12.1992 vide PPO No.D/00127 dated 2<sup>nd</sup> April, 1993. But, the same was stopped with effect from 04.09.1996 on her re-marriage. She was married to Hav. L.Indra Kumar Sinha on 01.01.1996. She has five daughters from her second marriage and she is presently working as Upper Division Clerk in the Office of the Records, Assam

Regiment at Shillong. Copies of the PPO dated 02.04.1993 and the last payment certificate for family pensioner dated 11.02.2019 are marked as Annexures-B and B1. Though the re-marriage of the family pension holder was a disqualification for continuing family pensionary benefits to such family pension holders, the Government of India, Ministry of Defence vide Letter No.1(6)/2011-D(Pen-Policy) dated 6<sup>th</sup> January, 2011 extended the benefits of ordinary family pension to the remarried childless widow of the Armed Forces Personnel. Accordingly, the applicant submitted Annexures C and C1 applications to the Record Office, Assam Regiment for restoration of her family pension in terms of Government of India letter dated 06.01.2011 and submitted all the required documents as directed by them by Annexure-D letter. But, the Record Office, Assam Regiment vide Annexure-E letter 28.10.2019 informed the applicant that PCDA(P), Allahabad rejected her claim for restoration of family pension on the reason that the income of the applicant is beyond the prescribed limit. Further, PCDA(P) observed that childless widow of a deceased Armed Forces personnel shall continue to be paid family pension even after her re-marriage subject to the condition that the family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed family pension in the Central Government. Further, Regulation 219 of the Pension Regulations for the Army, 1961

provides that a widow shall be eligible for family pension provided she is not re-married. But, this condition is set aside by the Government letter dated 6<sup>th</sup> January, 2011 by extending the benefit of pension to the childless widow even after re-marriage. The applicant is the childless widow of the deceased Pradip Kr. Sinha. But, the respondents have refused to restore the family pension in contravention of the Policy Letter No.1(6)/2011-D(Pen-Policy) dated 06.01.2011 issued by the Ministry of Defence. In the above circumstances, the applicant was left with no remedy other than approaching this Tribunal.

4. The respondents filed an Affidavit-in-Opposition raising various contentions to justify the discontinuation of family pension to the applicant. They admitted that the applicant's husband died on 23.12.1992 and accordingly, family pension has been granted to the applicant vide PCDA(P), Allahabad PPO No.D/001270/1993. Thereafter, the applicant applied for job on compassionate ground and she was granted job as Ty Peon in the Records Office, Assam Regiments with effect from 16.07.1994 on compassionate ground. Subsequently, she was promoted to Lower Division Clerk with effect from 21.05.2004 and further promoted to Upper Division Clerk with effect from 01.07.2013 and occurrence of the same has been notified accordingly. Further, the applicant was re-married to Lnk Indra Kumar Sinha of Assam Regiment on 01.12.1996 and occurrence of

the same has also been notified. Accordingly, Records the Assam Regiment directed the Treasury Officer, Silchar vide Letter No.3102/4352090/105/Pen (FP) dated 05.02.1996 to discontinue family pension of the applicant as she has re-married on 01.01.1996. Hence, she is not entitled for family pension as per Circular No.479 dated 17.02.2012 issued by the PCDA(P), Allahabad (Annexure R-12). After a prolonged gap of 23 years, the applicant requested, vide her personal application for restoration of family pension. Accordingly, Records the Assam Regiment asked for requisite documents from the applicant to process the claim with PCDA(P), Allahabad. The claim of the applicant was received from Zila Sainik Welfare Office, Silchar with documents and Assam Regiment submitted the claim papers to PCDA(P), Allahabad. However, PCDA(P), Allahabad rejected the family pension claim of the applicant vide letter No.G4/X/AT/Assam/PFO-136972019 dated 16.07.2019 stating that childless widow of a deceased Armed Forces Personnel shall continue to be paid family pension even after her re-marriage subject to the condition that family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed limit of family pension in the Central Government, according to PCDA(P), Allahabad Circular No.479 dated 17.02.2012. Subsequently, the respondents have submitted an Additional Affidavit-in-Opposition along with

Annexure R-1 series of income certificate/income declaration submitted by the applicant and Annexure R-2 tentative pension table of the applicant for the period 1.1.1996 to 1.1.2008 issued by the Record Office. It is seen from Annexure R-10 income certificate/income declaration produced by the respondents along with Affidavit-in-Opposition, Annexure-1 series of income certification/income declaration submitted by the applicant and Annexure R-2 tentative pension drawn table of the applicant for the period from 1.1.1996 to 1.1.2008 issued by the Senior Record Officer and produced along with Additional Affidavit-in-Opposition that her income from all other sources is beyond the prescribed limit of family pension and thereby, she is not entitled for the restoration of family pension. Accordingly, the Records the Assam Regiment intimated the denial of her claim for continuation of family pension, vide letter dated 28.10.2021. In order to support the aforesaid pleadings, the respondents have produced Annexures R-7 to R-13 and Annexures R-1 series and R-2 along with the Additional Affidavit-in-Opposition.

5. Heard Mr. A.R.Tahbildar, learned counsel appearing for the applicant and Mr. P.K.Garodia, learned Central Government Standing Counsel appearing for the respondents.

6. The learned counsel appearing for the applicant advanced arguments in support of the pleadings raised in the Original Application. The sub and

substance of the arguments is that applicant's claim for restoration of family pension was denied arbitrarily and unreasonably on the ground that her income from all other sources is higher than the limit of minimum family pension in the Central Government.

7. *Per contra*, the learned Central Government Standing Counsel appearing for the respondents invited our attention to Annexures R-9 to R-13, more particularly, Annexure R-10 income certificate/income declaration and Annexure R-1 series of income certificate/income declaration submitted by the applicant and Annexure R-2 tentative pension drawn table issued by the Senior Record Officer and contended that since her income from all other sources is higher than the minimum family pension, she was not entitled to restoration of family pension. That apart, the learned Central Government Standing Counsel invited our attention to Policy Letter No.17(4)/2008(2)/D (Pen/Policy) dated 12.11.2008 and Policy Letter No.1(6)/2011-D (Pen/Policy) dated 06.01.2011 issued by the Government of India, Ministry of Defence and contended that as per the aforesaid policy letters, the applicant was not entitled to get restoration of family pension as her income from all other sources, including her job, is higher than the minimum prescribed family pension.

8. In view of the arguments at the Bar, the sole question to be considered is, had there been any illegality or impropriety or arbitrariness in

the rejection of the applicant's claim for restoration of family pension, in view of Policy Letter No.17(4)/2008(2)/D (Pen/Policy) dated 12.11.2008 and Circular No.479 dated 17.02.2012 issued by the PCDA(P), Allahabad?

9. It is not disputed that the applicant's husband died on 23.12.1992. Thereafter, she was enrolled as Ty Peon in the Records Assam Regiment with effect from 16.07.1994 and subsequently, she was re-married to Lnk Indra Kumar Sinha of the Assam Regiment and consequently, her family pension has been discontinued. It is also admitted that the applicant is the childless widow of the deceased Pradip Kr. Sinha. PCDA(P), Allahabad had rejected family pension claim of the applicant vide letter dated 16.07.2019 stating that childless widow of a deceased Armed Forces person shall continue to be paid family pension even after her re-marriage subject to the condition that family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed limit of family pension in the Central Government, according to PCDA(P), Allahabad Circular No.479 dated 17.02.2012.

10. Therefore, the point to be considered for answering the aforesaid question is whether the applicant's income from all other sources is equal to or higher than her minimum prescribed family pension in the Central Government.



11. We have meticulously gone through Annexures R-10, R-11, R-12 and R-13, and we find that as per the existing policy letters, childless widow of a deceased Armed Forces person shall continue to be paid family pension even after her re-marriage subject to the fulfilling of the condition prescribed in Annexure R-12 that the family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed family pension in the Central Government. Going by Annexure R-13, we find that in the instant case, the applicant's annual income is beyond the prescribed limit of family pension and accordingly, the applicant is not entitled for restoration of family pension.

12. We have meticulously evaluated the legality and sustainability of the reasoning by which the applicant's claim for restoration of family pension has been rejected. In compliance with the direction of this Tribunal, the respondents have filed an Additional Affidavit-in-Opposition along with Annexure R-1 series of income certificate/income declaration of annual income submitted by the applicant to the respondents from 2006 to 2018 and Annexure R-2 tentative pension drawn table of the applicant from 1996 to 2008 issued by the Senior Record Officer. On the combined reading of Annexure R-10 and Annexure R-1 series of income certificate/income declaration along with Annexure R-2 tentative family pension table of the applicant for the period from 1.1.1996 to 1.1.2008, we find that the annual

income of the applicant from other independent sources is much more than her income shown in the tentative family pension table for the period from 1.1.1996 to 1.1.2008. The applicant has no case that her income from all other sources is lower than her income from minimum family pension in the Central Government. So long as the aforesaid policy letter and Circular No.479 dated 17.02.2012 are prevailing in force, the applicant is not entitled to get the restoration of her family pension.

13. Going by the pleadings and reliefs sought for, more importantly we find that the applicant has not challenged the legality and correctness of Government of India, Ministry of Defence Letter No.17(4)/2008(2)/D (Pen/Policy) dated 12.11.2008 or Annexure R-12 Circular No.479 dated 17.02.2012 issued by the Principal Controller of Defence Accounts(Pension), Allahabad. Hence, we find that in view of Annexure R-12 Circular, there is no illegality or impropriety or arbitrariness in the denial of applicant's claim for restoration of family pension with arrears.

14. The Original Application is devoid of merits and is dismissed accordingly. No order as to cost.

**AIR MARSHAL BALAKRISHNAN SURESH  
MEMBER (A)**

**JUSTICE K. HARILAL  
MEMBER (J)**

Sha/MC