

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

OA-29 Of 2016

P R E S E N T

**HON'BLE MR. JUSTICE B.P. KATAKEY, OFFICIATING CHAIRPERSON
HON'BLE VICE ADMIRAL MP MURALIDHARAN, MEMBER (A)**

Smt. Inaholi Choppy
W/o No. 10245948L
Lnk (Late) Ikughar Choppy
R/o-Toluvi village
B.P.O.-Purana Bazar
Dist-Dimapur, Nagaland

..... **Applicant**
Legal practitioners for the
Applicant
Mrs. Rita Devi
Mr. AR Tahbildar

- Versus -

1. The Union of India, represented by the
Secretary, Ministry of Defence
Sena Bhawan, New Delhi-1
2. Additional Director General,
Territorial Army, GS Branch, IHQ of MoD (Army)
L Block, Church Road, New Delhi-110001
3. Head Quarter, Territorial Army Group,
Eastern Command PIN-900285
4. Records The Assam Regiment
PIN-900332, C/o 99 APO
5. Commanding Officer, 119 Infantry Battalion
(TA), Assam PIN-934319
C/o-99 APO

.....**Respondents**
Legal practitioner for the
Respondents
Brig. N. Deka (Retd) CGSC

Date of hearing: **28.11.2016**

Date of order : **28.11.2016**

ORDER
(ORAL)

(Per B.P. Katakey, Officiating Chairperson)

1. Heard Mrs. Rita Devi, learned counsel appearing for the applicant and Brig. N. Deka (Retd) learned CGSC assisted by Col Anand, OIC, Legal Cell, AFT, Guwahati appearing for the respondents.

2. The applicant, who is the widow of Ikughar Choppy Lnk No. 10245948L enrolled in 119 Infantry Battalion (Territorial Army), Assam, has filed this application claiming family pension after the death of her husband, contending inter-alia that though her husband was entitled to pension after completion of 15 years of embodied service and after the death of her husband, she is entitled to family pension, the same has not been paid to her.

3. The respondents No. 1 to 5 in their affidavit has admitted that the applicant's husband had joined in 119 Infantry Battalion (Territorial Army) on 26.04.1999 and proceeded on disembodiment on 14.10.2014, thereby completing 15 years 90 days embodied qualified service for getting pension. It is also admitted that on 08.12.2014, the applicant's husband has expired during the dis-embodied period and hence according to the respondents themselves, he was entitled to pension.

4. There being no dispute to the fact that the applicant's husband rendered more than 15 years of qualifying service, he was entitled to the pension and after his death, the applicant though was entitled to the family pension, she has not been paid the family pension but has been paid the DCRG.

5. It also appears from the communication issued by the PCDA (P) Allahabad (Annexure-R4 to the affidavit filed by the respondents), that the family pension has not been granted to the applicant on the ground that as per Para 189(d) of Pension Regulations for the Army, Part-I, 2008, the applicant is not entitled to the family pension. Perusal of Para 189(d) of Pension Regulations for the Army, Part-I, 2008 reveals that the said provision has nothing to do with the family pension, which relates to the payment of terminal gratuity only. The applicant's husband

having served for more than 15 years in Territorial Army, the applicant is entitled to the family pension.

6. The respondents are, therefore, directed to pay the family pension due and payable to the applicant w.e.f. the date next to the date of death of her husband i.e. 09.12.2014. The entire arrear w.e.f. the said date with interest @ 9% per annum from said date till the date of payment shall be paid to the applicant within a period of 04 months from the date of receipt of the copy of this order.

7. OA is accordingly allowed.

8. Brig. N. Deka (Retd), learned CGSC appearing for the respondents has prayed leave to appeal to the Hon'ble Supreme Court Under Section 31 of the AFT Act, 2007, which, however, is rejected since our order does not involve any question of law having general public importance.

MEMBER (A)

OFFICIATING CHAIRPERSON

kalita