

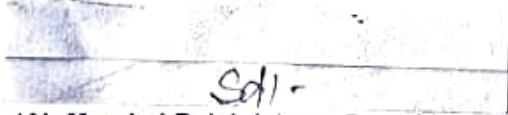
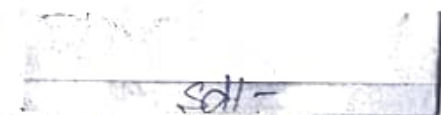
Form No. 4  
{See rule 11(1)}  
ORDER SHEET  
ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI  
(Sl. No. 13)

O.A. No. 45 of 2018

**Smt. Nupui Renghle** Applicant  
By Legal Practitioner for the Applicant : Shri Anil Rinliana Malhotra, Advocate

**Versus**

**Union of India & Others** Respondents  
By Legal Practitioner for Respondents : Shri B. Kumar, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><b>06.04.2023</b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Air Marshal Balakrishnan Suresh, Member (A)</u></b></p> <p>One the case being taken up for hearing no one is present on behalf of the applicant.</p> <p>Heard Shri B. Kumar, Ld. Counsel for the respondents.</p> <p>Original Application is <b>dismissed on merit</b>.</p> <p>For orders, see our order passed on separate sheets.</p> <p>Misc. Application(s), pending if any, shall be treated to have been disposed of.</p> <p style="text-align: center;"> (Air Marshal Balakrishnan Suresh) Member (A)</p> <p style="text-align: center;"> (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/MC/-</p>

ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
GUWAHATI

Original Application No 45 of 2018

Thursday, this the 6<sup>th</sup> day of April, 2023

"Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)"  
"Hon'ble Air Marshal Balakrishnan Suresh, Member (A)"

Smt. Nupuii Renthlei, D/O Ex. No. 4331863 Late Hav Sainuara, R/O:  
Tuivamit, Aizawl, Mizoram

-----Applicant

Ld. Counsel for the Applicant: **None present on behalf of the applicant.**

Versus

1. The Union of India, R/b the Secretary to the Govt. of India, Ministry of Defence, South Block, New Delhi.
2. The Commandant, Assam Regimental Centre, Happy Valley, Shillong, Meghalaya.
3. The Senior Record Officer, for OIC Records, The Assam Regiment, PIN (ARMY) – 900332, C/o 99 APO
4. Principal Controller of Defence Accounts (Pensions) Draupadi Ghat, Allahabad - 211014.
5. Smt. Lalawmpuii, D/O Ex Hav Sainuara No. 4331863 R/o : Tuikual, Aizawl, Mizoram.

..... Respondents

Ld. Counsel for the Respondents : **Shri B Kumar,**  
**Central Govt. Counsel.**

**ORDER**

**"Per Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)"**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- a) *To call for the records and issue rule, calling upon the Respondents to show cause as to why the impugned letter No. 4043/SDD/4332226/148 (FP) dt. 18/3/16 shall not be set aside and quashed and as to why the applicant being the unmarried daughter of her deceased father Ex. No. 4331863 Late Hav. Sainuara should not be allowed to enjoy the children family pension benefit of her late parents with interest for delayed payment since the date she became eligible, and after hearing both parties to make the rule absolute and to allow this Application, and/or to pass any other Order (s) as your Lordships may deem fit and proper.*
- b) *That as per Rule 54 (6) (iii) of the CCS (Pension) Rules, 1972, an unmarried daughter is eligible for payment of family pension until she gets married or until she starts earning her livelihood, whichever is earlier.*
- c) *That according to para 3 of the Government of India's decision No. 26 and 26-A below Rule 54 of the CCS (Pension) Rules, 1972 even in cases wherein eligibility of unmarried daughters occurs after issue of PPO, and the pensioner or his spouse*

*has expired, the unmarried daughter can herself intimate such details to the pension sanctioning authority. In fact, the family pension in such cases can be processed by the pension sanctioning authority even without such intimation/ acknowledgment, if sufficient proof of entitlement is produced by the claimant and all other conditions for grant of family pension are fulfilled.*

- d) *That the law laid down by the Apex court is that right to family pension is a statutory right and not a bounty. It is a right conferred by law and the same should not be denied to the person who is entitled to the same under the statute. Thus, there will be no impediment on the part of the Respondents to make payment of family pension to the Petitioner. Even if any claim be made from any third party, it is to be decided as a separate cause of action against the present Petitioner separately in accordance with the provisions of law. And as such, the Respondents are liable to be directed to grant the family pension of the Petitioner's late father in favour of the Petitioner with effect from the date she became eligible in accordance with law with interest for delayed payment."*

2. Facts giving rise to Original Application in brief are that Ex Hav Sainuara was enrolled in Army on 18.03.1941. He was discharged from service on 10.09.1956. Ex Hav Sainuara was married to Smt Chhingpuii. Ex Hav Sainuara died on 04.11.1968 and after his death, his widow was granted family pension till her death on 18.12.2009.

After death of Smt Chhingpuii (mother of the applicant), applicant Smt Nupuii submitted representation for grant of family pension which was rejected by the respondents on the ground that her name was not entered in service record of Ex Hav Sainuara and she was not dependent on her mother at the time of her death. Applicant preferred various applications for grant of family pension but she was denied for grant of family pension. Being aggrieved, the applicant has filed instant Original Application for grant of family pension.

3. Applicant in the pleading has submitted that Ex Hav Sainuara was married to Smt Chhingpuii and after his death his widow was granted family pension till her death upto 18.12.2009. The applicant was born out of the wedlock of her late parents Ex Hav Sainuara and Smt Chhingpuii, Resident of Aizawl, Mizoram and her birth certificate is enclosed. The applicant was married to Bimal Zoramsanga but she was divorced by way of 'MAK" in the year 1994 which is a valid ground for dissolution of marriage under the Mizo Marriage, Divorce and Inheritance of Property Act 2014. A Divorce Certificate was issued by Civil Judge, Aizawl Judicial District, Aizawl bearing Certificate NO 126 of 2016. Copies of Marriage Certificate dated 10.12.1982 and Divorce Certificate No 126 of 2016 are enclosed with O.A. Applicant is divorced daughter of Ex Hav Sainuara and Smt Chhingpuii, hence competent Court has issued Heirship Certificate for family pension on behalf of her late mother Chhingpuii bearing Heirship Application No 65 of 2016. The applicant is a divorced elder daughter among the siblings and is

eligible for grant of family pension in terms of Central Civil Services (Pension) Rules, 1972, Rules 54. The applicant submitted representation dated 09.05.2016 for grant of family pension through District Sainik Welfare & Resettlement Officer, Aizawl District, Mizoram.

4. The statement given by Smt Lalawmpuii, Respondent No 5 that Smt Nupuii, the applicant was married till 2012 after the death of their mother is totally false. She gave this statement for getting family pension in her favour. After death of Smt Chhingpuii wife of Ex Hav Sainaura, Smt Lalawmpuii, Respondent No 5 had also filed application for grant of family pension in her favour which was rejected vide impugned order dated 15.06.2016 stating that she was not dependent on her mother during lifetime of her mother. The applicant was issued Divorce Certificate along with letter of divorce by the Secretary Presbyterian Church of India, Mizoram, Chairman Tulvomit Local Council and Secretary Young Mizo Association. Respondent No 5 has sworn an affidavit before Judicial Magistrate Aizawl stating that she had wrongly misled Magistrate Additional Subordinate District Council Court, District Kolasib for getting family pension in her favour. The applicant is not employed in any Government service and has no other regular source of income as such Income Certificate dated 13.11.2018 was issued to her by Executive Magistrate, District Aizawl. Daughter of ex serviceman is eligible for grant of Family Pension after death of her parents. The applicant has pleaded that in view of aforesaid, direction be given to respondents to release family pension to the applicant.

5. Per contra, learned counsel for the respondents submitted that Ex Hav Sainuara was enrolled in Army on 18.03.1941 and retired from service on 10.09.1956. His service documents have been destroyed after 50 years in terms of Paras 592 & 595 of the Regulations for the Army. He was granted service pension after retirement from army. He died on 04.11.1968. After his death his wife Smt Chhingpuii was granted family pension till her death on 18.12.2009. After death of Smt Chhingpuii on 09.05.2016, applicant stating herself as divorced daughter applied for grant of family pension of her father, which her mother was getting. As per Long Roll Hav Sainuara belonged to Village Thingdawl, PO/PS Vengthar in Kolasib District and not to Aizawl District. Grant of family pension to the applicant was denied by the respondents. It was intimated by Record Assam Regiment that Smt Lalawmpuii, sister of the applicant had submitted a similar application for claiming family pension in her favour as a divorced daughter. However, the same was rejected as her date of divorce was found to be later than the death of her mother Chhingpuii. Learned counsel for the respondents pleaded that in view of the facts and legal position the Original Application is misconceived and devoid of merits as such liable to be dismissed.

6. Heard learned counsel for the respondents and perused the documents available on record.

7. From perusal of documents it emerged that Ex Hav Sainuara was married to Smt Chhingpuii. After death of ex-serviceman, Smt

Chhingpuii (Wife of deceased soldier) was granted family pension till her death on 18.12.2009. Service documents of deceased soldier have been destroyed on 01.10.2007 on completion of 50 years in terms of para 592 and 595 of Regulations for the Army (Revised Edition 1987). As per Long Roll, Name of Miss Hmangaih was recorded as daughter of the deceased soldier. Claim of the applicant for grant of family pension was rejected due to reason that applicant was divorced after death of her mother and she was not dependent on her mother. Applicant further submitted representation for grant of family pension mentioning that she got divorced in 1994 and her mother died on 18.12.2009, hence she is entitled for grant of family pension. However, as per documents submitted by Smt Lalawmpuii (sister of the applicant) applicant was married till 2012 which clearly shows the mal intention for getting family pension. As per Long Roll, Hav Sainuara belonged to Village- Thingdawl, PO Vengthar, District - Kolasib and applicant has given her address as Village Tulvomit, Aizawal, Mizoram. On investigation it was revealed that applicant was residing at Tulvomit, Aizawl District since year 2000, whereas her mother had been living in Village Thingdwl, Vengthar in Kolasib District till her death in 2009. In absence of service document, facts of the case cannot be ascertained. Name of Smt Nupuii, the applicant has not been found recorded in Long Roll. Neither Ex Hav Sainuara, father of applicant nor Smt Chhingpuii, mother of applicant have ever informed about birth of applicant to any agency. We have considered



the applicant's case in view of above factors and we find that applicant is not entitled for grant of family pension. We also find that rulings relied upon by the applicant being either based on different facts or overruled are of no help to her.

8. In the result, we hold that the claim of family pension has rightly been rejected by the respondents which needs no interference. Resultantly, O.A. is **dismissed**.

9. No order as to cost.

*Sd/-*  
(Air Marshal Balakrishnan Suresh) (Justice Umesh Chandra Srivastava)  
Member (A) Member (J)

Dated: May, 2023  
Ukt/-