

Written statement has been filed. It has been stated that the petitioner is not entitled to get Special Family Pension as the cause of

death is not considered as attributable to or aggravated as a result of military service.

In the course of submission, learned counsel for the petitioner submits that the individual i.e. son of the petitioner died in the unit while he was on duty. Death certificate was also issued which is annexed as P-4, which goes to show that the individual died as a result of Cardiac arrest. Other documents filed, also go to show that the son died as a result of Cardiac arrest.

It is further submitted that in view of paragraph 213 of the Pension Regulations for the Army 1961, the petitioner is entitled to get the Special Family Pension as the death was hastened by heart resulting sudden death, which is second to the disease which was attributable to military service as on the date of death he was on duty. It is further submitted that the parents are entitled to get Special Family Pension after the widow's sons and daughters. Admitted position is that the individual died unmarried.

Learned counsel for the respondents opposed the prayer of the petitioner. However, in the course of submission, it is submitted that the individual died in the unit while he was in service. There is some dispute regarding the nature of the death. However, the petitioner died all of a sudden while he was asleep in the night due to cardiac arrest and brain hemorrhage.

We considered the submission of the learned counsel for both the parties as also perused paragraph 213 of the pension Regulations for the Army 1961. It is quite apparent that the death of the petitioner hastened as a result of disease which was attributable to military service.

The individual died while he was on duty. Thus, apparently, the mother of the deceased and thereafter the father of the deceased is entitled to get Special Family Pension.

Accordingly, this application is allowed. Respondents are directed to assess and release the Special Family Pension in favour of the petitioner from the date of the death of his/her son. The petitioner is also entitled to get the interest on the arrears @ 6% per annum.

(Justice Ghanshyam Prasad)

[Lt Gen A.S. Bahia(Retd)]

29-07-2010

‘sns’