

**ARMED FORCES TRIBUNAL, CHANDIGARH REGIONAL BENCH
AT CHANDIMANDIR**

...

OA No.06 of 2016(alongwith MA No.20 of 2014)

...

Smt. Indrawati**...Petitioner****Versus****Union of India & others****...Respondent(s)**

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For the petitioner : Mr.Surinder Sheoran, Advocate

For the Respondent(s) : Mr.Anil Khurana, CGC

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**CORAM:JUSTICE SURINDER SINGH THAKUR, JUDICIAL MEMBER
LT GEN DS SIDHU (RETD), ADMINISTRATIVE MEMBER**

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**ORDER
30.06.2015**

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The petitioner herein is the widow of Late Sigmnn Shri Krishan (No.14242143). She has filed the present petition seeking the following reliefs, viz:-

- (i) To quash letters dated 27.04.1983 and 26.09.2013 (Annexures A-2 and A-6, respectively) vide which her claim of disability pension qua her husband and enhanced family pension to her, has been rejected by the respondents;
- (ii) To direct the respondents to release disability pension, consisting service element and disability element @ 20% w.e.f. 10.08.1982 to 07.01.1995 till death of her husband and, thereafter, enhanced family pension to the petitioner with interest; and
- (iii) To pass any other appropriate order or direction, the Tribunal may deem fit and proper in the facts and circumstances of the case.

2. Briefly stated, the facts of the case are that Late Sigmn Shri Krishan was enrolled in the Army on 18.02.1981 in medical category 'AYE' and was invalided out from Army service w.e.f. 10.08.1982. While on duty, he suffered an injury and was admitted in the Military Hospital. The Hospital authorities diagnosed him as a patient of "**CONTUSION HIP (RT)**" and recommended to be invalided out from Military service. An Invaliding Medical Board was held on the petitioner on 08.07.1982 which held the injury sustained by the petitioner as attributable to military service and assessed it as 20% for two years as per Annexure A-1. The disability pension claim of late husband of the petitioner was rejected by PCDA(P) Allahabad vide letter dated 19.03.1983 and rejection was communicated to him as per Annexure A-2. Allegedly, requisite information was not provided to him and he failed to file an appeal against the rejection order during his life, which ended on 19.12.2001(Annexure A-3).

3. It is pleaded by the petitioner that she applied for the requisite information from the respondents under the RTI Act on 07.06.2013 which was supplied to her vide letter dated 14.07.2012(Annexure A-5). Thereafter, she filed a representation on 10.06.2013 for release of disability pension in favour of her late husband and enhanced family pension to her after his death, but, the same has been rejected by the respondents vide Annexure A-6, dated 26.09.2013. Hence the present petition.

4. On notice, the respondents have filed a written statement in which it is *inter alia* averred that late husband of the petitioner was invalided out from service w.e.f. 10.08.1982 under Army Rule 13(3) Item (III) in Low Medical

Category (E(EEE) for the diagnosis “**CONTUSION HIP (RT) N-924, E-885**” after having rendered service for 01 year and 04 days only in the Army. It is admitted that disability of late husband of the petitioner was opined by the IMB as attributable to military service and the degree of disable was assessed as 20% for two years. The respondents have further contended that his claim for disability pension was forwarded to PCDA(P), Allahabad, but, the said authority rejected it on the plea that the disability was not attributable to military service.

5. The other plea of the respondents is that the petitioner is claiming disability pension qua her late husband and enhanced family pension for her after a lapse of 29 years. Such a claim is barred by time. The rejection orders are valid and justified and the O.A. deserves to be dismissed.

6. Heard learned counsel for the parties and perused the record.

7. Learned counsel for the petitioner argued that even though the disability suffered by late husband of the petitioner was held as attributable to Military Service by the IMB, the respondents rejected his claim for disability pension illegally and arbitrarily. Relying upon the decision of a Coordinate Bench of this Tribunal, dated 23.07.2014 in OA No.1083 of 2014, titled Mohan Singh vs. Union of India, the learned counsel further stated at the bar that the Director AG/PS-4(Legal) Adjutant General's Branch, Ministry of Defence (Army) New Delhi, vide letter dated 25.04.2011, has directed the concerned authorities to withdraw unconditionally from all such cases notwithstanding the stage they may have reached and such files be processed for sanction. On these submissions,

the learned counsel urged that the present O.A. may be disposed of in the same and similar terms.

8. The learned counsel for respondents, opposed the petition on grounds of limitation and further submitted that since the claim was not allowed to the late husband of the petitioner, nor any appeal was preferred by him during his life time, the petitioner has got no right to raise such a claim after the death of her husband.

9. The above contentions raised by the learned counsel for respondents are not acceptable. Insofar as limitation is concerned, it normally does not apply in pension and pensionary matters and with these observations, MA 20 of 2014 stands disposed of. The question whether a widow can claim the pensionary benefits qua her late husband came up before this Tribunal in O.A. No.1081 of 2014, titled Smt. Rajbala vs. Union of India & others, decided on 17.03.2015 and a positive view was taken therein in this regard.

10. In view of the above, this O.A. is disposed of with a direction to the respondents to process the case of the petitioner for grant of disability element of disability pension qua her late husband in the light of the letter referred to above within a period of four months from the date of receipt of certified copy of this order by the learned counsel for respondents and pass appropriate orders in accordance with rules and law.

11. In case the petitioner feels aggrieved by the orders to be passed by the respondents, as aforesaid, she will be at liberty to approach this Tribunal all over again and in case favourable orders are passed by the respondents, the monetary benefits accruing to the petitioner shall be paid to her within a further period of one month from the date of passing of the said orders, failing which, the amount of arrears shall carry interest @ 9% from the due date, till actual disbursement thereof. It is clarified that disability pension claim of the petitioner qua her late husband shall stand restricted to two years only as admittedly his disability was assessed for two years only and it is not the case of either party that any Re-survey Medical Board was held.

12. The O.A. stands disposed of with the above observations and directions.

13. No order as to costs.

[Justice Surinder Singh Thakur]

[(Lt Gen DS Sidhu (Retd))]

Chandigarh

Dated: 30.06,2015

`bss’

Whether the judgment for reference to be put on internet – Yes/ No