

ARMED FORCES TRIBUNAL REGIONAL BENCH CHENNAI

O.A.No. 07 of 2012

Wednesday, the 12th day of September 2012.

**THE HONOURABLE JUSTICE SHRIKANT THRIPATHI
MEMBER (JUDICIAL)**

AND

**THE HONOURABLE LT.GEN.(RETD) ANAND MOHAN VERMA
(MEMBER – ADMINISTRATIVE)**

Muthu @ Muthammal
Dependant Mother of
Late (No. 6464143F)
Ex. Sep ASC (MT) B. Selvaraj
Moramadagu Village & Post
Krishnagiri, Tamil Nadu- 635001

... Applicant

Legal Practitioners : Cdr. (Retd) S.P.Ilangovan

Vs.

Union of India represented by

1. The Chief of the Army Staff
2. The Officer –in-Charge, ASC Records (AT)
Pahapur, Gaya, Bihar – 803 005
3. The Principal CDA (Pensions)
Draupathighat, Allahabad, U.P. 211 014

... Respondents

ORDER:

Heard Com (Rtd) S.P.Ilangovan, the Counsel for the Applicant and Shri B. Shanthakumar, SPC the Government Counsel for the Respondents and perused the records.

2. By the instant petition under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant Mrs. Muthu @ Muthammal has claimed the Special Family Pension with effect from the date of death her husband i.e. 24.10.2007.

3. The applicant's son Mr. B. Selvaraj was in Indian Army and was killed in

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Army operation Meghdoot on 26th August 1996 while being posted to 726(1) AD Platoon ASC and attached with the Detachment CP. The respondents sanctioned Special Family Pension to the applicant's husband Mr. Balakrishnan who was in receipt of such pension till his death which took place on 24.10.2007. The applicant also claimed the Special Family Pension but was denied, therefore she filed the present petition.

4. The respondents have filed a written reply and stated therein that the applicant has already been sanctioned Liberalised Family Pension, which is more beneficial than the Special Family Pension claimed by the applicant.

5. The Learned counsel for the applicant submitted that the applicant was satisfied with the Liberalised Family Pension granted by the respondents. But such pension ought to have been granted immediately after the death of the applicant's husband. There was no justification to grant Liberalised Family Pension with effect from 19.04.2010. The learned counsel further submitted that the applicant was entitled to the Liberalised Family Pension with effect from 25th October 2007, being the next date immediately after the death of her husband.

6. The contention of the learned counsel for the applicant seems to have much substance. The applicant became entitled to the second Liberalised Family Pension only on the death of her husband, who was in receipt of the first Liberalised Family Pension. Therefore the relevant date for the grant of Liberalised Family Pension to the applicant would be the next date immediately after the date of the death of her husband and not the date 19.04.2010 arbitrarily fixed by the respondents. There does not appear to be any reasonable basis to fix the cut off date as 19.04.2010 for the second Liberalised Family Pension to the applicant.

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7. In view of the aforesaid, the petition is partly allowed. Respondents are directed to pay the Liberalised Family Pension to the applicant with effect from 25th October 2007. They are further directed to make the payment of arrears of the said pension to the applicant within four months from today failing which the amount of arrears will carry simple interest @ 7% p.a. to be paid by the respondents to the applicant. Costs easy. Inform the parties.

Sd/-
JUSTICE SHRIKANT TRIPATHI
(MEMBER-JUDICIAL)

Sd/-
Lt. GEN (RETD) ANAND MOHAN VERMA
(MEMBER – ADMINISTRATIVE)

12.9.2012
//TRUE COPY//

To

1. The Chief of Army Staff,
Army HQ, Sena Bhavan, New Delhi 110 011.
2. The Officer-in-Charge, ASC Records (AT),
Paharpur, Gaya, Bihar- 803005.
3. The Principal CDA(Pension)
Deaupathighat, Allahabad, UP- 211 014.
4. Cdr.(Retd) S.P.Ilangovan, Advocate for the applicant.
5. Mr. B. Shanthakumar, SPC, Counsel for Respondents.
6. OIC, Legal Cell, ATNK & K. Area, Chennai.9
7. Library, AFT, RBC.

**HONOURABLE JUSTICE
SHRIKANT TRIPATHI
(MEMBER-JUDICIAL)**

AND

**HONOURABLE LT GEN (RETD)
ANAND MOHAN VERMA
(MEMBER – ADMINISTRATIVE)**

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