



2025:DHC:9416-DB



\$~88

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 16268/2025, CM APPL. 66522/2025 & CM APPL.
66523/2025
UNION OF INDIA & ORS.Petitioners

Through: Mr. Prajesh Vikram Srivastava,
SPC and Mr. Dipanshu Sharma, Adv with
Major Anish Muralidhar, Army.

versus

SMT. GUDDI BISHT W/O 1278283Y LATE HAV PURAN
CHANDRA SINGH BISHTRespondent

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

%

27.10.2025

C. HARI SHANKAR, J.

1. This writ petition assails the order dated 31 July 2023, passed by the learned Armed Forces Tribunal¹ in OA 672/2020².

2. The respondent Guddi Bisht is the widow of one Havaldar Puran Chandra Singh Bisht³. Puran was enrolled in the Indian Army on 5 August 1965. Consequent to the death of his first wife, Puran married the respondent on 1 May 1977. The Tribunal has recorded, in the impugned order, and it is not in dispute before us, that, consequent on the marriage of Puran with the respondent, the respondent's name

¹ "the Tribunal" hereinafter

² **Smt Guddi Bisht v Union of India and others.**

³ "Puran" hereinafter



was recorded in the service records of Puran as his legal heir for the purposes of receipt of family pension.

3. On 29 April 1978, Puran died, following an electric shock. A Court of Inquiry⁴ was constituted to enquire into the cause of death. The COI, in its report dated 12 October 1978, clearly opined that the death of Puran was attributable to military service.

4. Ordinarily, this should have sufficed for Special Family Pension to have been released to the respondent. The respondent duly applied for grant of Special Family Pension. The application was forwarded to the Pension Sanctioning Authority on 13 November 1978.

5. Strangely, the Pension Sanctioning Authority, on 5 March 1979 rejected the respondent's claim for Special Family Pension on the ground that the death of Puran was not attributable to military service. We fail to understand how such a conclusion could have been arrived at, in the face of the finding, to the contrary, of the COI.

6. Be that as it may, the decision of the Pension Sanctioning Authority was communicated to the respondent on 16 March 1979. The communication also informed her that she had a right to appeal against the decision within six months. It is not in dispute that the respondent did not prefer any such appeal.



7. Following the aforesaid decision of the Pension Sanctioning Authority, the respondent was granted ordinary family pension on 6 July 1979, and continued to be paid ordinary family pension thereafter.

8. On 3 August 2015, the respondent applied for grant of Special Family Pension. The petitioner, by communication dated 26 September 2015, advised the respondent to submit an appeal against the decision of the Pension Sanctioning Authority to the First Appellate Authority. The respondent appealed on 12 October 2015. The First Appellate Authority allowed the appeal. On the basis of the decision of the First Appellate Authority, the respondent was granted Special Family Pension. However, this grant was only made effective from 12 October 2015.

9. The respondent, in these circumstances, petitioned the Tribunal by way of OA 672/2020, praying for arrears of Special Family Pension, from the date of the death of her husband, i.e., for the period 30 April 1978 to 11 October 2015 with interest.

10. The application was contested by the petitioner, as the respondent before the Tribunal, on the ground that it was highly belated.

11. The Tribunal has, however, proceeded to grant arrears as sought

⁴ “COI” hereinafter



by the respondent. The reasoning of the Tribunal is contained in the following paras of the order:

“10. That the applicant is entitled to the Special Family Pension, in view of the death of her late husband Hav Puran Chandra Singh Bisht who died due to an electric shock during repair of an electric board in the unit lines whilst he was on bonafide military duty and thus entitled to the grant of Special Family Pension is not disputed, is an established fact in as much as the cause of death of the late husband Hav Puran Chandra Singh Bisht of the applicant was attributable to military service.

11. It is thus apparent that the applicant is entitled to the grant of Special Family Pension from the date of demise of her late husband Hav Puran Chandra Singh Bisht. This is so in as much as laid down by the Hon'ble Supreme Court in ***SK Mastan Bee v General Manager South Central Railway & Anr.***⁵ it is apparent that it is an obligation on an employer to compute the Family Pension and offer the same to the widow of this employee as soon as it becomes due to her and merely because the widow of the employee did not agitate her rights earlier after the rejection of her claim for the Special Family Pension vide communication dated 05.03.1979 which communication the applicant had submitted that she had not received, does not absolve the respondents from granting to the applicant the dues that are rightfully due to her. The observations of the Hon'ble Supreme Court in ***SK Mastan Bee*** (Supra) in paras 5-7 thereof are relevant to the issue germane in the present matter and are reproduced as under:-

"5. In this appeal, the appellant questions this restriction on her right to claim family pension w.e.f. 21-11-1969, the date on which her husband died. It is submitted on behalf of the appellant that the Division Bench having agreed with the learned Single Judge on the legal right of the appellant to receive family pension ought not to have confined the said right to a date much subsequent to the death of her husband, merely because a demand for payment of family pension was made only in the year 1992. Learned counsel for the appellant pointed out from the judgment of the Division Bench itself that it had held that the denial of family pension to the appellant amounted to violation of her

⁵ (2003) 1 SCC 184



fundamental right to life guaranteed under Article 21 of the Constitution and that the Division Bench had also held that in the circumstances of this case the delay in approaching the railway authorities cannot be considered to be fatal for the maintainability of the writ petition. The learned counsel submitted, based on these findings, that the Division Bench could not have restricted the appellant's claim to a date much subsequent to the date of death of her husband. Per contra, the learned counsel for the Railways contended that the delay in approaching the court was so large that it was not a fit case for the exercise of the discretionary remedy under Article 226 of the Constitution and that the High Court was in fact very generous to the appellant in granting the relief from the year 1992.

6 We notice that the appellant's husband was working as a Gangman who died while in service. It is on record that the appellant is an illiterate who at that time did not know of her legal right and had no access to any information as to her right to family pension and to enforce her such right. On the death of the husband of the appellant, it was obligatory for her husband's employer viz. the Railways, in this case to have computed the family pension payable to the appellant and offered the same to her without her having to make a claim or without driving her to a litigation. The very denial of her right to family pension as held by the learned Single Judge as well as the Division Bench is an erroneous decision on the part of the Railways and in fact amounting to a violation of the guarantee assured to the appellant under Article 21 of the Constitution. The factum of the appellant's lack of resources to approach the legal forum timely is not disputed by the Railways. The question then arises on facts and circumstances of this case, was the Appellate Bench justified in restricting the past arrears of pension to a period much subsequent to the death of the appellant's husband on which date she had legally become entitled to the grant of pension? In this case as noticed by us hereinabove, the learned Single Judge had rejected the contention of delay put forth by the Railways and taking note of the appellant's right to pension and the denial of the same by the Railways illegally considered it appropriate to grant the pension with retrospective effect from the date on which it became due to her. The Division Bench also while agreeing with the learned Single Judge observed that the delay in approaching



the Railways by the appellant for the grant of family pension was not fatal, in spite of the same it restricted the payment of family pension from a date on which the appellant issued a legal notice to the Railways i.e. on 1-4-1992. We think on the facts of this case inasmuch as it was an obligation of the Railways to have computed the family pension and offered the same to the widow of its employee as soon as it became due to her and also in view of the fact that her husband was only a Gangman in the Railways who might not have left behind sufficient resources for the appellant to agitate her rights and also in view of the fact that the appellant is an illiterate, the learned Single Judge, in our opinion, was justified in granting the relief to the appellant from the date from which it became due to her, that is the date of the death of her husband. Consequently, we are of the considered opinion that the Division Bench fell in error in restricting that period to a date subsequent to 1-4-1992.

7. In the said view of the matter, we allow this appeal, set aside the impugned order of the Division Bench to the extent that it restricts the right of the appellant to receive family pension only from 1-4-1992 and restore that right of the appellant as conferred on her by the learned Single Judge, that is from the date 21-11-1969. The Railways will take steps forthwith to compute the arrears of pension payable to the appellant w.e.f. 21-11-1969 and pay the entire arrears within three months from the date of the receipt of this order and continue to pay her future pension.

12. The verdict of the Hon'ble Supreme Court in *State of Jharkhand & Ors. v Jitendra Kumar Srivastava & Anr*⁶ also lays down categorically vide para 8 thereof, that gratuity and pension are not bounties and the same are hard-earned benefits which accrue to an employee and are in the nature of property, which Right to Property cannot be taken away without the due process of law as per the provisions of Article 300-A of the Constitution of India.

13. It also been reiterated vide para 14 of the verdict of the Hon'ble Supreme Court in *State of Jharkhand & Ors.* (Supra) that the right to receive pension is recognized as right to property by the Constitution Bench of the Hon'ble Supreme Court in *Deokinandan*

⁶(2013) 12 SCC 210



Prasad v State of Bihar⁷.

15. It was sought to be contended on behalf of the respondents that the reliance that was placed on behalf of the applicant on the verdicts in *S K Mastan Bee* and *State of Jharkhand & Ors.* (Supra) is not on facts in pari-materia to the instant case, which submission cannot be accepted, in as much as the verdict of the Hon'ble Supreme Court in *SK Mastan Bee* and *State of Jharkhand & Ors.* (Supra) clearly lays down to the effect that the right to receive pension which would apparently include the right to receive Special Family Pension (to which the applicant herein has already been held entitled to vide the order of the First Appellate Committee of the respondents themselves), is a constitutional right of the applicant whose late husband expired during discharge on bonafide military duty and the demise of the late husband of the applicant was attributable to military service. In these circumstances to confine the grant of the Special Family Pension to the date when the First Appellate. Committee acceded to her submission that the demise of the applicant's late husband was attributable to military service whilst on bonafide duty is wholly arbitrary and erroneous and violative of the constitutional right of the applicant to receive the Special Family Pension due to her from the date of demise of her late husband Hav Puran Chandra Singh Bisht No. 1278283Y on 29.04.1978, whilst on bonafide military duty.

CONCLUSION

16. The OA 672/2020 is thus allowed and the impugned letter No. G-4NV120/PGO/G-55070&55070(R-1)/2019 dated 24.10.2019 is set aside and the respondents are directed to grant the arrears of Special Family Pension as per rules to the applicant from the date of the death of her late husband that is on 30.04.1978 till the date 11.10.2015 within a period of two months from the date of receipt of the copy of this order. In the event of the non-payment of the arrears as directed hereinabove wherein the stipulated period of time of two months from the date of receipt of the copy of this order, the arrears shall carry interest thereon @10% p.a. till the date of payment."

12. Following the aforesaid reasoning, the Tribunal directed that the

⁷ (1971) 2 SCC 330



respondent be granted arrears of Special Family Pension from the date of the death of Puran, i.e., from 30 April 1978, till 11 October 2015, within two months. Failure to comply with the order, it was further observed, would visit the petitioner with the liability to pay interest @ 10% per annum till the date of payment.

13. Aggrieved by the aforesaid order of the Tribunal, the Union of India has preferred the present writ petition before us.

14. We have heard Mr. Prajesh Vikram Srivastava, learned SPC for the petitioner.

15. We specifically queried of Mr. Srivastava as to how he proposes to distinguish the decision in *Mastan Bee*, on which the Tribunal placed reliance. He submits that *Mastan Bee* was a case of negligence on the part of the sanctioning authority whereas, in the present case, the sanctioning authority had informed the respondent as far back as on 16 March 1979 that she was not entitled to Special Family Pension and also advised her, if she so chose, to appeal against the said decision. Having failed to do so, Mr. Srivastava submits that the respondent was certainly not entitled to raise a belated claim several years thereafter.

16. We are not inclined to accept the aforesaid submission.

17. The decision in *Mastan Bee*, in our view, squarely covers the



case. The Supreme Court, in the said decision, granted arrears of pension to the appellant before it from the date of death of her husband. We see no reason to take a different view in the present matter.

18. In fact, we are constrained to observe that the petitioner ought to have released Special Family Pension to the respondent immediately on the COI returning a finding that the death of Puran was attributable to military service. We are unable to understand how, even in the face of the said finding, the claim of the respondent for Special Family Pension was rejected on 5 March 1979 on the ground that death of Puran was not attributable to military service. It goes without saying that the Pension Sanctioning Authority cannot sit in appeal over the decision of COI.

19. Thus, as the petitioner had committed a serious error on 5 March 1979, we do not regard the delay on the part of the respondent in re-approaching the petitioner for Special Family Pension, to be fatal to her case.

20. There is another, and more obvious, reason why the present writ petition must fail. When the respondent re-approached the petitioner on 3 August 2015, her claim was not rejected on the ground of delay. She was advised to appeal to the First Appellate Authority. *The First Appellate Authority allowed her appeal*, following which the respondent was granted Special Family Pension.



21. To our mind, the obvious sequitur of allowing of the respondent's appeal would be to uphold her entitlement to Special Family Pension from the date of death of her husband. There can be no dispute that the entitlement to Special Family Pension is from the date of death of the husband of the respondent, and not from the date of passing of the appellate order.

22. In our view, the impugned order of the Tribunal is perfectly in accordance with law. We see no reason to interfere with the impugned order, especially given the limited parameters of our jurisdiction under Article 226 of the Constitution of India.

23. We, however, extend the time available to the petitioner to comply with the order passed by the Tribunal by a period of 12 weeks from today. We reiterate the observation of the Tribunal that failure to disburse payment to the respondent within the said period of 12 weeks shall visit the petitioner with further liability to interest at the rate of 10% per annum till the date of actual payment.

24. The writ petition is accordingly dismissed *in limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

OCTOBER 27, 2025/rjd