



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.7896 of 2025
Date of Decision: 21.03.2025**

Union of India and others

.....Petitioners.

Versus

Smt. Kanta Devi and another

.....Respondents.

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Dharam Chand Mittal, Senior Panel Counsel, UOI
 for the petitioners.

SANJEEV PRAKASH SHARMA, J.(Oral)

Challenge in the present writ petition is to the order dated 19.04.2023 passed by the Armed Forces Tribunal, Chandigarh Bench (for short 'the AFT') in *O.A. No.2608 of 2019* titled as '*Smt. Kanta Devi Vs. Union of India and others*' whereby respondent No.1, mother of the deceased Sepoy, was allowed Special Family Pension.

2. Learned counsel for the Union of India has vehemently argued that the case of the deceased does not fall within the Clause(f), below Note 2 to Rule 12 of the Entitlement Rules for Casualty Pensionary Awards, 1982 (for short 'the Rules'), as the accident cannot be said to come within the four-corners of employment.

3. We have considered the submissions.



4. Brief facts which are to be noticed are that the son of the applicant was enrolled in the Army on 08.09.2002 in a fit state of health and after his training, he was posted to 13 Dogra as a Sepoy and had proceeded on annual leave for 36 days w.e.f. 01.01.2004 to 06.02.2004. On 29.01.2004, while he went to Railway Station on his motorcycle for confirmation of his return journey reservation, he met with an accident of civil bus at District Ropar while coming back to his village resulting in head injury and subsequent succumbing to the same. The applicant prayed for granting her Special Family Pension with regard to his death. The Court of Inquiry was ordered by the Commanding Officer to investigate the circumstances under which he sustained head injury during leave. The Court of Inquiry was held on 24.03.2004 and as per its opinion, the deceased Sepoy was not held to be careless or negligent or responsible for the accident.

5. Taking note of the said facts, the AFT noticed the provisions of Clause(f), below Note 2 to Rule 12 of the Rules to grant the Special Family Pension.

6. It would be apposite to quote the Clause(f), below Note 2 to Rule 12 of the Rules, which reads as under:-

“An accident which occurs when a man not strictly ‘on duty’ as defined may also be attributable to service, provided that if involved risk which was definitely enhanced in kind or degree by the nature, conditions, obligations or incidents of his service and that the same was not a risk Common to human



existence in modern conditions in India. Thus, for instance, where a person is killed or injured by another party by reason of belonging in the Armed Forces, he shall be deemed 'on duty' at the relevant time. This benefit will be given more liberally to the applicant in cases occurring on active service as defined in the Army/Navy/Air Force Act."

7. Further, Clause (a) of the Regulation 213 of Pension Regulations for the Army, 1961 reads as under:-

"213. A special family pension may be granted to the family of an individual if his death was due to or fastened by:

(a) 'a wound, injury or disease which was attributable to military service'."

8. Keeping in view the above provisions, we find that where an accident had occurred resulting in death or injury to an Army personnel, he shall be deemed to be on duty and the benefit would be given more liberally, provided such death or injury was caused without his personal involvement in any manner in aggravating such an accident. Since in the Court of Inquiry, the investigation resulted in holding the concerned Sepoy not to be involved in any manner resulting in his death, i.e he was neither careless nor negligent while driving his motorcycle, the applicant, who is mother of the deceased Sepoy, would be entitled to Special Family Pension as the injury could be treated to have been caused while on duty. The judgment passed by the Hon'ble Supreme Court in ***Pension Sanctioning Authority, PCDA (P) Allahabad and others Vs. M.L. George, Ex. SGT,***



(2015) 15 SCC 399 is applicable to the facts of the case, wherein the following observations were made:-

“6. The decision in Madan Singh Shekhawat case is, in our opinion, a complete answer to the case at hand. The respondent in the present case also was returning to his place of duty after availing casual leave when he met with an accident. It is not the case of the respondent that he had left the place of his duty unauthorisedly. It cannot, therefore, be said that he was not on duty in terms of the provision of Regulations 10 and 48 referred to in Madan Singh Shekhawat case.”

9. In view of the above, we dismiss this writ petition and uphold the order dated 19.04.2023 passed by the AFT.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

March 21, 2025
Yag Dutt

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No