



2026:DHC:1436-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision : 18.02.2026

+ W.P.(C) 2333/2026

VIDYA DEVI

.....Petitioner

Through: Mr. Girindra Kumar Pathak, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Syed Abdul Haseeb CGSC with
Ms. Nasreen Khatoon G.P.
Major Kanika Sharma (Army)**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****MANMEET PRITAM SINGH ARORA, J. (ORAL)**

1. This petition has been filed under Article 226 of the Constitution of India, challenging the order dated 27.11.2025 ['impugned order'], passed by the Armed Forces Tribunal, Principal Bench, New Delhi ['the Tribunal'] in Original Application 3781/2025 ['the O.A.'] titled as '**Vidya Devi, w/o late Sep Udey Singh (6619875) Vs. UOI and Ors**', whereby the Tribunal rejected the petitioner's request for family pension.

FACTUAL MATRIX AS SET OUT IN THE PETITION

2. The petitioner's husband, Late Sep Udey Singh, was enrolled in the Indian Army as a Sepoy [Driver] on 19.03.1963 and was discharged from services on 01.10.1979 after serving the nation for more than sixteen [16]



years.

3. The petitioner married Lt. Udey Singh as per the customs and rights after migrating from Jammu and Kashmir to Udhampur in the period from 1970 to 1980, after being contacted by his family on the pretence that he was unmarried. It is stated that the petitioner, being illiterate, does not remember the year, month and day of her marriage. Out of the wedlock between the Petitioner and Late Sep Udey Singh, three [3] children were born (two daughters and one son). However, one [1] daughter died due to burns.

4. On visiting Lt. Udey Singh's native village in Haryana, the petitioner got to know that he had another wife, namely, Smt. Satwati Devi. The petitioner reported the matter of the second marriage to the Commanding Officer of Lt. Udey Singh.

5. Lt. Udey Singh was discharged from the services on 01.10.1979 and was granted service pension, and PPO was issued to him in October 1979.

6. After his discharge, Lt. Udey Singh joined the Atomic Minerals Directorate for Exploration and Research at Bangalore as a Driver Grade-II in 1981. From there, he was superannuated on 31.05.2002.

7. It is stated that Lt. Udey Singh was getting pensions from both organizations during his lifetime.

8. On 29.07.2011, Late Sep Udey Singh sent a representation to respondent no. 3, requesting to replace the name of the petitioner as his Next of Kin (NOK) in his service documents and also sought the publication of Part-II order about his marriage with the petitioner. On 12.08.2011, this was returned by respondent no. 3 on the grounds that when the first wife was already alive, contracting marriage again is an offence under the Hindu



Marriage Act 1955 [‘Act of 1955’], and the records cannot be corrected, once the first, legally married wife was alive.

9. On 27.09.2011, Lt. Udey Singh passed away. Multiple representations were made between 2011 and 2017, but the respondents rejected the petitioner’s claim for a family pension; however, respondent no. 3 vide letter dated 14.04.2012 intimated the petitioner that the children of the petitioner are entitled to family pension.

10. It is stated that vide impugned letter dated 05.03.2013, respondents once again declined the petitioner’s representation for grant of family pension on the ground that her marriage to Lt. Udey Singh was void on account of his first marriage to Smt. Satwati Devi. It was also stated that since the children born out of wedlock are married, they are not entitled to family pension.

11. It is stated that the first wife of Lt Udey Singh expired on 13.05.2012. However, despite submission of her death certificate and repeated representations by the Petitioner [including letters dated 20.02.2013 and 29.06.2017], the respondents failed to grant family pension to the Petitioner.

12. Aggrieved by the refusal of the grant of family pension to the petitioner, the petitioner filed the O.A., which was also rejected vide the impugned order. Thus, this petition.

SUBMISSIONS BY THE PETITIONER

13. It is stated that the impugned order has erroneously recorded that the first wife of Lt Udey Singh is still alive and is drawing a pension, whereas no reply has been sought on the petition by the Tribunal from the respondents.



13.1. It is that the petitioner has resided with Lt Udey Singh from the date of the marriage till his demise, and that the first wife resided separately after leaving his company.

13.2. It is stated that the petitioner is entitled to a family pension, and in this regard, reliance is being placed upon the judgment of the Supreme Court in **Shriramabai w/o Pundalik Bhawe & Ors. v. The Captain, Record Officer for O.I.C. Records, Sena Corps Abhilekh, Gaya, Bihar State and Anr.**¹, whereby pensionary benefits were granted to the second wife.

COURT'S FINDINGS

14. This Court has heard the learned counsel for the parties and perused the record.

15. It is an admitted fact that the petitioner's marriage to the officer Lt. Udey Singh was solemnised during the lifetime of his first wife, Smt. Satwati Devi and therefore the petitioner's marriage was void in law.

16. By way of this petition, the petitioner prays for the grant of family pension as the widow of Lt. Udey Singh, in light of the fact that Smt. Satwati Devi has since passed away on 13.05.2012. The respondents have rejected the claim of the petitioner on the ground that she was not lawfully married to Lt. Udey Singh and therefore she is not eligible to receive the pension.

17. The petitioner does not dispute that the payment of family pension is governed by the Pension Regulations for the Army, 1961 ['applicable Regulations'].

18. It is not in dispute that, as per the applicable Regulations, family

¹ (2024) 16 SCC 773



pension is payable to the widow of the officer, who was lawfully married to the officer.

19. It is admitted that Lt. Udey Singh was still married to Smt. Satwati Devi, on the date of his demise on 27.09.2011, and he was therefore survived by his widow, Smt. Satwati Devi, who duly claimed family pension as per the applicable Regulations².

20. Smt. Satwati Devi survived Lt. Udey Singh and died on 13.05.2012. In the petition, the petitioner appears to be contending that upon the said demise of Smt. Satwati Devi, the right of a widow to receive family pension has devolved upon the petitioner herein.

21. In our considered opinion, the said submission of the petitioner is, however, without any basis in law. The conditions for a valid Hindu marriage have been elucidated in Section 5 of the Act of 1955, which has explicitly specified that a marriage may be solemnised between two [2] Hindus if neither individual has a spouse living at the time of the marriage, the said section is to be read in consonance with Section 11 of the Act of 1955, which clearly stipulates that marriage between a Hindu man and woman is void if the marriage took place during the subsistence of his first marriage.

22. Consequently, the widow who is entitled to a family pension is the 'wife' who was lawfully married to the officer.

23. In this case, the petitioner's marriage to Lt. Udey Singh was admittedly solemnised during the lifetime of the first wife, Smt. Satwati Devi, as well as during the subsistence of the first marriage between Lt.

² As recorded in the letter dated 14.04.2012



Udey Singh and Smt. Satwati Devi. It is undisputed that Lt. Udey Singh, during his lifetime, did not take any legal steps to dissolve his first marriage, despite being separated from his first wife and having ample time to do so. In the considered opinion of this Court, the said marriage of the petitioner and Lt. Udey Singh is therefore not valid in the eyes of the law. In this regard, reliance is also being placed upon the dicta of the Supreme Court in the judgment **Raj Kumari v. Krishan**³. The relevant paragraph reads as follows: -

“13. Normally, pension is given to the legally wedded wife of a deceased employee. **By no stretch of imagination one can say that the plaintiff, Smt. Krishna was the legally wedded wife of late Shri Atam Parkash, especially when he had a wife, who was alive when he married to another woman in Arya Samaj temple**, as submitted by the learned counsel appearing for the appellants. We are, therefore, of the view that the High Court should not have modified the findings arrived at and the decree passed by the trial court in relation to the pensionary benefits.”

[Emphasis supplied]

24. The petitioner has relied upon the judgment of the Supreme Court in **Shiramabai** (supra) and more specifically paragraph nos. '11 and 21' therein to contend that she would be entitled to a family pension after the demise of [the first wife] Smt. Satwati Devi. We are unable to accept the aforesaid contention of the petitioner and find that the reliance placed on the said judgment is misconceived.

In **Shiramabai** (supra), the lawfully wedded wife Ms. Anusuya, was divorced from the officer therein, i.e., Lt. Subedar Pundalik Bhawe, in 1990. After the divorce, the said officer had continued to cohabit with Mrs.

³ (2015) 14 SCC 511



Shiramabai thereafter until his demise. In these peculiar facts, the Supreme Court held that due to the long cohabitation of the officer and Mrs. Shiramabai as man and wife, there was a presumption of valid marriage between the parties. Significantly, the Supreme Court took into consideration the period after the officer was divorced from his lawfully wedded wife Ms. Anusuya, while adjudicating the issue of the grant of family pension. It was in these peculiar facts that the Supreme Court held that Mrs. Shrimabai was entitled to pension.

The said judgment has no application to the facts of this case. As noted above, in the present case, the first wife, Smt. Satwati Devi had survived the officer Lt. Udey Singh and therefore was his lawful surviving widow. The second marriage of Lt. Udey Singh with the petitioner herein, therefore, continued to remain unlawful until his demise in 2011 and therefore the demise of Smt. Satwati Devi in 2012 would not make the petitioner's marriage valid.

25. The petitioner has also sought to place reliance upon an Office Memorandum dated 10.10.2024 issued by the Union of India under Central Civil Services (Pension), Rules 2021 ['CCS Rules']. However, learned counsel for the petitioner fairly conceded that CCS Rules, 2021 have no application to this case as the family pension in the present matter is governed by the Pension Regulations for the Army, 1961. We therefore find no merit in the reliance placed on the said memorandum. Even otherwise, we have perused the said circular and find that the said circular does not grant any rights to a spouse who is not lawfully married to the officer at the time of his/her demise.



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26. In these admitted facts, the decision of the respondents communicated vide letter dated 05.03.2013 declining family pension to the petitioner is correct and has been rightly upheld by the Tribunal in its impugned order.

27. The present petition is without any merit and is accordingly dismissed. Pending applications, if any, stand disposed of.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

FEBRUARY 18, 2026/aa/mt