

FORM NO – 21
(See Rule 102 (1))

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

APPLICATION NO: T.A. 38 OF 2011 (CWJC No. 8950/2006)

THIS 22ND DAY OF AUGUST, 2014

CORAM: Hon'ble Mr. Justice Raghunath Ray, Member (Judicial)

Hon'ble Lt. Gen. K.P.D.Samanta, Member (Administrative)

Yashoda Devi, W/o Late Arun Kumar Singh,
Vill Samhota, Tola Ram Nagar, P.S. Kopa
Dist. Chhapra, Bihar

..... Applicant

- Versus -

1. Union of India
Service through the Chief Record Officer,
EME Records, Secunderabad-21
2. The Lt. Colonel, AAG, Chief of Staff,
HQ, Southern Command, Pune- 411 001,
3. The Sr. Accounts Officer (P)
CDA (P), Allahabad
4. The Chief of Staff, Central Command,
Lucknow
5. The Branch Manager, Bank of India,
Tek Niwas Branch, PO Kachnar, Dist. Chhapra

.....Respondents

For the applicant: Mr. Anal Kr. Ghosh, Advocate
Mr. Sanjit Kumar Das, Advocate

For the respondents 1 to 3: Mr. D.K.Mukherjee, Advocate

O R D E R

Per Hon'ble Lt. Gen. K. P. D. Samanta, Member (A):

This is an application filed by a hapless wife of a former soldier claiming family pension, which was originally filed before the Hon'ble Patna High Court as a writ petition being CWJC No. 8950 of 2006. The said Writ Petition was subsequently transferred to this Bench under operation of Section 34 of AFT Act, 2007 and accordingly it has been renumbered as TA 38 of 2011.

2. The relevant facts are that the husband of the applicant Shri Arun Kumar Singh was enrolled in the Army in EME Depot Battalion, Secundrabad on 17-7-1957. By dint of his sincere and honest service he got several promotions and lastly he came to be promoted in the rank of JCO, i.e. Nb Subedar. His date of retirement on completion of term of service was w.e.f. 1-10-1983.

3. The husband of the applicant while in service was involved in a criminal case concerning family land dispute and consequent to such dispute there was an unlawful assembly which resulted in murder of some persons. Accordingly, a police case was filed on the charge punishable under section 302 of IPC read with other sections of the said Code as also of Arms Act. After trial, the Ld. 2nd Additional Sessions Judge, Saran, Chhapra District of Bihar in Sessions Trial No.171 of 1977, vide judgement and order dated 27-4-1983 convicted the husband of the applicant and 13 other accused persons for life imprisonment together with other sentences under different sections of the IPC. The applicant and other convicts preferred Criminal Appeal vide No.252/1983 before the Hon'ble Patna High Court. The High Court, however, upheld the judgement and order of conviction passed by the Ld Sessions Judge as per judgement and order dated 20-3-1987. In the meantime, the applicant's husband was sent to prison for undergoing the punishment. However, he was enlarged on bail granted by the Hon'ble Patna High Court. Against the judgement of the Hon'ble Patna High Court, the applicant's husband and other convicts preferred an appeal before the Hon'ble Supreme Court vide Criminal Appeal No.206 of 1989. The Hon'ble Supreme Court vide order dated 16-2-1997 acquitted 11 convicts but confirmed the conviction and sentence awarded in respect of the husband

of the applicant and his brother and nephew. Accordingly, the applicant's husband was sent to prison and he was eventually released on 18-8-1997 on completion of jail term.

4. As already stated, the applicant's husband, even though involved in the criminal case during his service period, was allowed to retire on completion of his term of appointment and pension was also sanctioned to him vide PPO No.S/C/6949/84 dated 5-1-1984 (Annexure 2) @ Rs398/- per month with effect from 1-10-1983 for life. The applicant's husband was in receipt of such pension for about 10 years despite his conviction, but all of a sudden, the payment of pension was stopped from August 1993 by the payee bank.

5. After release from jail in August 1997, the applicant's husband preferred representations to the concerned authorities for restoration of his service pension. Several correspondences were made with EME Records and such application of the husband of the applicant was considered by the said Record Office and the matter was also taken up with the PCDA (P) and also payee bank, i.e. the Bank of India for restoration of pension. Ultimately nothing happened and the husband of the applicant unfortunately died on 8-9-2004 without getting his pension restored.

6. Subsequent to the death of her husband, the applicant made efforts to get the arrear amount of pension admissible to her husband from when it was stopped i.e. August 1993 till he expired on 8-9-2004 and also for grant of family pension, but to no effect except some correspondences and interim reply from EME Records. Being aggrieved she has filed the instant Writ Petition before the Hon'ble High Court in the year 2006 praying for a direction to the respondents to grant her entire arrear pension amount admissible to her deceased husband and also for grant of family pension in her favour contending that she is in penury and has no means of livelihood after the death of her husband.

7. The respondents have contested the application by filing a counter affidavit. They have not denied the fact that the applicant's husband was enrolled on 17-7-1957 in EME Corps and was

transferred to Pension Establishment with effect from 1-10-1983 on completion of his service. It is further stated that while in service, the husband of the applicant was involved in a criminal case. He was arrested by civil police on 15th October 1976 and was placed under custody at District Jail, Chhapra for an offence under Section 302 IPC for investigation and trial. He was ultimately convicted by the Ld. Session Court with imprisonment for life vide judgement dated 27-4-1983 passed by the Ld. 2nd Addl. Sessions Judge, Saran. He preferred an appeal before the Hon'ble Patna High Court and was granted interim bail on 5th July 1983 and thus was released on bail bond.

8. It is also admitted by the answering respondents in no uncertain term that the husband of the applicant was granted pension with effect from 1-10-1983 vide PPO No.S/C/6949/84 dated 25-4-1984 issued by the PCDA (P) Allahabad which was also amended subsequently on 30th July 1986 vide Corrigendum PPO No.REV/003176/86. Based on such PPO, the husband of the applicant received his first payment of pension on 25th July 1985. It is stated by the respondents that the pension of the applicant's husband was stopped by the Pension Disbursing Authority (PDA) i.e. payee bank because of his conviction by Sessions Court under section 302 of IPC and award of punishment for life imprisonment. Such action was taken by the PDA in terms of provision of Para 29.1 of Pension Payment Instructions (Revised) 1973 (Annexure R1). After release from jail custody on undergoing the punishment, the husband of the applicant made a prayer on 28th July 2003 to the EME Records for restoration of his service pension stating that he was acquitted by the Hon'ble Supreme Court vide order dated 15-2-1997. Accordingly he was asked to submit certain mandatory documents in terms of letter dated 15-9-2003. On receipt of the same the documents were forwarded to the PDA, i.e. Bank of India, Tek Niwas Branch, PO Kachnar, District Saran, Bihar for taking up the case with Pension Sanctioning Authority, i.e. PCDA Allahabad for restoration of pension. The answering respondents have stated that since the pension of the applicant's husband was suspended by the concerned Bank, i.e. the Pension Disbursing Authority, it is for them to restore the same in consultation with the PCDA(P), Allahabad and that no action is to be taken by other respondents i.e.

EME Records on this aspect. It is also stated that in terms of Para 82(b) of Pension Regulations question of restoration would depend on the circumstances and also the gravity of the offence.

9. The PCDA (P)/CDA (P) (respondent No. 3) and pension payee Bank (respondent No. 5) have not entered appearance nor have they filed any counter affidavit despite several directions to do so.

10. We have heard the learned counsel for the parties at length. The applicant has submitted a written note of arguments. The respondents have submitted the supplementary affidavit annexing some documents in compliance with our order to indicate the rule position with regard to payment of pension etc.

11. The learned counsel for the applicant has very forcefully contended that it was within the knowledge of the respondents that the applicant's husband was involved in a criminal case while in service. Despite that, he was allowed to continue in service and to complete the existing term on completion of which, due service pension was also sanctioned in his favour after his retirement w.e.f. 1-10-1983. He continued to enjoy such pension for about 10 years without any objection from any quarters. At that time he was already convicted and enlarged on bail. However, all of a sudden from August 1993, the pension was stopped by the Bank apparently in terms of Para 29.1 of Pension Payment Instructions, 1973. Learned counsel for the applicant has further submitted that in terms of Regulation 4 of Pension Regulations for the Army Vol.1, pension can be suspended, withheld or withdrawn in case the pensioner is involved in a criminal case but in this case, the applicant was involved in the criminal case during his service tenure and not as a 'pensioner' and as such Regulation 4 has no application. In support of this contention, he has referred to a decision of the Hon'ble Allahabad High Court reported in Laws (All)-1995-9-129 (**Uma Shanker Bharti –vs- Chief Controller of Defence Accounts, (P) Aild**). He has also referred to two more decisions in his written notes, one of Hon'ble Calcutta High in WP No.14668 (W) of 2012 – **Anandi Prasad Mahato vs State of West Bengal** and the other of the Hon'ble Supreme Court in **D.S. Nakara vs Union of India** (AIR 1983 SC 130). His contention is that pension is not a bounty which can be withheld or suspended or

forfeited at the sweet will of the authorities. For withholding, suspension or forfeiture of pension already sanctioned, due procedure of issuing show cause is required which has not been done. Moreover, bank is only the Pension Disbursing Authority (PDA) and it has no authority to withhold or suspend pension without obtaining approval of the competent authority i.e. Pension Sanctioning Authority.

12. Mr. D.K. Mukherjee, learned counsel for the respondents has submitted that after his release from jail custody the applicant's husband made a prayer for restoration of his pension on 28-7-2003 but he gave wrong information that he was acquitted by the Hon'ble Supreme Court vide judgement dated 15-2-1997. Mr. Mukherjee submitted that this information was wrong because the Hon'ble Supreme court had actually acquitted other accused persons except the applicant's husband and two others. Be that as it may, some documents were called for from the husband of the applicant, on receipt of which, those were sent to the PCDA and Pension Disbursing Authority i.e. Bank, for taking necessary action. He has further submitted that the applicant's husband was involved in a murder case and was convicted and such conviction was upheld and confirmed by the Hon'ble Patna High Court and also Hon'ble Supreme Court. A person convicted of such a grave crime is not entitled to any service pension. Mr. Mukherjee has also submitted that in fact the sanction of pension in favour of the husband of the applicant was wrongly done and the same was subsequently suspended after his conviction, by the disbursement bank. Thus, the husband of the applicant has forfeited his right to get the pension because of his conviction in criminal case and his pension was, therefore, not restored subsequently. He died in that condition i.e. a person whose pension was forfeited. Since the husband of the applicant was not a pensioner at the time of his death, the applicant cannot also get family pension as claimed.

13. We have given our anxious consideration to the submissions made by both parties. We have also very carefully gone through the various documents placed on record. It is the admitted position that the applicant's husband was involved in a criminal case in private capacity and was tried by the

Sessions Court at Saran in Sessions Trial No.171 of 1977. He was ultimately convicted by the Ld. Addl. Sessions Judge, Saran, under Section 302 of IPC and was awarded life imprisonment together with other punishments vide his judgement and order dt. 27.4.83. At that point of time, the applicant's husband was very much in service. An appeal was filed against the conviction before the Hon'ble Patna High Court and the applicant's husband was enlarged on interim bail on 5.7.83. The conviction and sentence passed by the trial court, was confirmed by the Hon'ble Patna High Court as also by the Hon'ble Supreme Court on appeal so far as the husband of the applicant was concerned vide judgement and order of the Hon'ble Supreme Court dated 16.2.97 in CrI. Appeal No. 206/89.

14. It is also an accepted position that even though the applicant's husband was involved in a Criminal Trial and was also convicted by the learned Additional Session Judge, Saran on 27-4-1983, i.e. when he was in service, he was not suspended nor his service terminated; rather, he was allowed to continue till completion of his term of engagement as a JCO and accordingly he retired from service w.e.f. 1-10-1983 i.e. after his conviction. He was also granted service pension by the competent authority vide order dt. 5.6.84 w.e.f 1.10.83, which he continued to get for long 10 years without any restriction or objection even though he was convicted for life imprisonment and suffered jail term for some time and then released on bail. It is only from August 1993, his pension was stopped by the Bank. It appears from the counter affidavit by the respondents that such action was taken by the Bank in terms of Para 29.1 of Pension Payment Instructions. We also find from the supplementary affidavit filed by the applicant on 13-2-2013 that the applicant's husband intimated the entire facts of his involvement in criminal case to the Chief of Army Staff by his statutory complaint dated 24-10-2013 (Annexure P 12). There is a communication dt. 18-1-1984 (Annexure P 13) from the AAG, Sub Area HQ. Danapur Cant. addressed to the Govt. counsel of Patna High Court when the appeal was pending, in which it was stated that the case was put up before the Chief of Staff, Central Command, Lucknow, who desired that the JCO (applicant's husband) should not suffer by default and request was made for payment of pension etc. urgently. It is therefore clear that the

authorities consciously sanctioned pension in favour of the applicant's husband, knowing fully well that he was tried in the criminal case u/s 302 and other Sections of IPC as also Sec. 25 (a) and 26 of Arms Act and was convicted for life imprisonment. Of course, he preferred appeal and was enlarged on bail.

15. It is well known proposition of law that the authority, who is competent to sanction pension is also competent to withhold such pension. In this case pension was sanctioned under the authority of the EME Record vide Annexure A2 to the TA. Therefore, withholding or suspension of pension can only be done by the said authority as provided in Reg 4 of Army Pension Regulations, which has not been done in this case. According to the Counter Affidavit, the pension was stopped in terms of Para 29.1 of Pension Payment instruction by the concerned Bank. In this context, a communication dt. 2nd Jul 2004 at page 41 of the supplementary affidavit may be referred to. This letter is on behalf of Chief Record Officer, EME Records addressed to HQ, Southern Command, Pune where at Para 5 & 6 it is stated as follows :-

"5. Service pension claim of the JCO was initiated on 24 Dec 1983. He was granted service pension at the rate of Rs. 426/- pm vide PCDA (P) Allahabad PPO No. S/C/6949/84 dated 25 Apr 1984 as amended vide Corr PPO No. REV/003176/86. The JCO received 1st payment of pension on 25 Jul 1985.

6. It is further submitted that this office has no information regarding stoppage of his pension by his pension disbursing authority (PDA). A copy of individual application is being forwarded to the PDA to find out the details of the case for further action."

16. We also find a communication dt. 14 June 2004 from the Sr. Accounts Officer (P) of the office of PCDA (P), Allahabad addressed to the EME Records wherein reference was made to regulation 423 of Regulation for the Army and it was stated that while forwarding the claim for pension on 24.12.83, no information was given as regards the conviction and imprisonment of the JCO. However, it was requested that in order to enable the said office i.e. PCDA (P) to take suitable action for continuance of pension of the JCO, decision of the Chief of Army Staff in this regard may be communicated along with other documents.

17. For better understanding of the position, regulation 423 of Regulations for the Army is quoted below:

“423. Conviction of Officers, JCOs, WOs and OR by The Civil Power – The conviction of an officer by the civil power will be reported to the Central Government and that of a JCO to the Chief of the Army staff for such action as these authorities see fit to take. The conviction of a WO or OR will be reported to the brigade/sub area commander who will decide whether dismissal, discharge or reduction is desirable.

The disciplinary authority may, if it comes to the conclusion that an order with a view to imposing a penalty on a Government Servant on the ground of conduct which had led to his conviction on a criminal charge should be issued, issue such an order without waiting for the period of filing an appeal or, if an appeal has been filed without waiting for the decision in the first court of appeal.”

18. We have already indicated that the applicant sent a communication to the Chief of Army Staff by way of a statutory complaint on 24-10-1983 i.e. after his retirement on 1.10.83 stating his involvement in the criminal trial and conviction as also the pendency of appeal. It was sent by post and postal receipt is also annexed. It appears that despite such statutory complaint, the applicant's husband was granted service pension which he enjoyed for a long time during his conviction period.

19. From the above factual position, it appears that the Record Office and the office of PCDA (P) i.e. Pension Sanctioning Authority and Pension Payment Authority respectively did not take any action or pass any order as regards stoppage of pension of the applicant's husband. It is only the Pension Disbursing Authority i.e. the Bank concerned that withheld the pension, which, as per respondents, was done in accordance with the provisions of Para 29.1 of Pension Payment Instructions, 1973 (revised in 2005). A copy of the relevant instruction is annexed at Annexure-R1. That apart, the respondents have also drawn our attention to the fact that payment of pension depends on future conduct of the pensioner as provided in reg. 4 of Pension Regulations for the Army and it can be withheld for involvement in serious crime.

20. Be that as it may, we need not consider the issue whether pension was sanctioned to the husband of the applicant in accordance with rules after his conviction or whether to allow him to continue in service after his arrest by police, or during criminal trial and subsequent conviction was

lawful or not because in the meantime the husband of the applicant died. Therefore, all these issues are of no relevance now since even if it is held that such pension was sanctioned illegally or de hors the rules, no corrective action can be taken now in view of death of the pensioner as he would not be in a position to defend himself. Moreover, it would also not be feasible to recover any amount in that regard even if it is held that such pension was sanctioned wrongly, as contended by Mr. Mukherjee.

21. The question that is relevant is as to status of the petitioner's husband at the time of his death and whether the applicant herein is entitled to family pension as per rules, which the main prayer.

22. Admittedly, when the applicant's husband died 8.9.04, he was not drawing any pension which was stopped by the disbursing bank. Neither the pension sanctioning authority (Govt of India as delegated to OC Records) nor the pension payment authority (PCDA (P)) had endorsed the action of the Bank. Moreover, the fact remains that the pension payment order or the pension sanctioning order was neither withdrawn nor cancelled by the competent authority. In the absence of any such order, therefore, it cannot be said that the husband of the petitioner was not a pensioner at the time his death. It can at best be stated that the pension granted to him was kept in suspended animation during his conviction period.

23. We may now consider Para 29.1 of Pension Payment Instruction based on which the disbursing bank withheld pension of the husband of the applicant from August 1994. To consider this issue, it will be useful to refer to a decision of the Hon'ble Punjab & Haryana High Court in the case of **Nasib Singh Ex Subedar Major –vs- UOI & Ors** decided on 31 Oct 1996 and reported in (1997)115 PLR 658.

24. In that case also the petitioner had retired from the Army in the rank of Subedar Major on 1.6.82 and service pension was granted from the date of superannuation. Thereafter, he was

involved in a murder case and was sentenced to undergo imprisonment for life on 18.2.86. He preferred appeal before the Hon'ble High court and Supreme Court but his conviction and sentence were maintained. He was informed that vide decision dt. 22.11.95, the respondents had forfeited his pension from 18.2.86 to 1.6.95 and had restored full pension for life w.e.f. 2.6.95 i.e. after his release. The petitioner filed the above writ petition claiming the forfeited portion of pension for about 9 years during the period of his conviction. In that context, while considering Para 29.1 of Pension Payment Instruction, it was observed as under:-

"5. Counsel for the Union of India contends that the army personnel who were in receipt of pension, after their discharge from military service, are not entitled to any pensionary benefits during the period of sentence undergone by them, if they are found guilty in any criminal case. The counsel also contends that a bare perusal of paragraphs 29 and 29.1 of Pension Payment Instructions, 1973 would demonstrate that pension of such a pensioner is liable to be forfeited if he is convicted by any Criminal Court in a serious crime and if the Pension Disbursing Officer becomes, aware of any case in which a pensioner is sentenced to imprisonment, then, the matter is forthwith reported to the Controller of Defence Accounts (Pensions). The counsel further contends that there is no violation of Article 20(2). Clause (2) of Article 20 of the Constitution of India envisages that no person can be prosecuted and punished for the same offence more than once. In the case in hand, there is no double jeopardy.

6. We have heard learned counsel for the parties and perused the paper book.

7. The Apex Court in "**Maj. (Retd.) Hari Chand Pahwa v. Union of India**, 1995(1) Services Law Reporter, 703 has held as under:-

"The provisions of Regulation 16 (a) are clear. Even if it is assumed that the Pension Regulations have no statutory force, we fail to understand how the provisions of said Regulations are contrary to the statutory provisions under the Act or the Rules. The pension has been provided under these Regulations. It is not disputed by the learned counsel that the pension was granted to the appellant under the said Regulations. The Regulations which provided for the grant of pension can also provide for taking it away on justifiable grounds. A show cause notice was issued to the appellant, his reply was considered and thereafter the President passed the order forfeiting the pension and death-cum-retirement gratuity."

8. A bare reading of the above observations would make it clear that the Regulations which provided for the grant of pension can also provide for taking it away on justifiable grounds.

9. Paragraphs 29 and 29.1 of the Pension Payment Instructions, 1973, which deal with the forfeiture of pension, are reproduced hereunder:-

"29. Forfeiture of Pensions of Class I, II and V Pensions;

The above classes of pensioners are liable to forfeiture of pension if convicted by any Criminal Court of serious crime including political offences or guilty of grave misconduct, should the Pension Disbursing Officer become aware of any case in

which a pensioner is sentenced to imprisonment or is found guilty of grave misconduct, he should forthwith report the matter to the Controller of Defence Accounts (Pensions) with a copy of the order of conviction and sentence and suspend the pension provisionally pending receipt of instructions from the Controller of Defence Accounts (Pensions) as to whether the pension should be withheld, reduced or continued in full. Any permanent deduction of pension that may be decided upon, will be notified to the Pension Disbursing Officer who should note the reduced rate on the pensioner's papers and the payment/Check Register."

"29.1. Forfeiture of Pensions of Class VI and VII pensions;

Should the Pension Disbursing Officer become aware of any case in which a pensioner is sentenced to imprisonment, he should forthwith suspend the payment of his pension and report the fact to the Controller of Defence Accounts (Pension) for keeping a note in his records. **On release of the petitioner from imprisonment, the Pension Disbursing Officer will obtain an application from the pensioner for restoration of pension and submit it to the Controller of Defence Accounts (Pensions) with a report in IAFA-401 together with the following documents:-**

- i) A copy of the judgment of the Court by which the pensioner was tried and convicted and if an appeal was made a copy also of the judgment of the appellate court;
- ii) A memo showing the dates from and to which the pensioner was actually in prison, to be obtained from the Superintendent of the jail from which the petitioner was released.
- iii) A list giving particulars of previous conviction, if any, against the pensioner to be obtained from the Deputy Commissioner or Collector of the District.
- iv) A memo showing the character on discharge from service, length of service and the date from which petitioner as well as regimental number of the pensioner as shown in the descriptive roll;
- v) A memo showing the date of arrest and the period the pensioner was under police custody as an under-trial pension prior to the date of conviction."

From the above paragraphs, it is amply clear that the pension of a pensioner is liable to be forfeited if he is convicted by any Criminal Court in a serious crime. As per paragraph 29.1 of the Pension Payment Instructions, 1973, pension is again restored on the release of pensioner from imprisonment. The petitioner was tried for a murder and was convicted and sentenced to imprisonment for life on 18.2.1986 by the Additional Sessions Judge, Hoshiarpur. After imprisonment of the petitioner provisions of Paragraphs 29 and 29.1 of the Pension Payment Instructions, 1973 came into play and the pension of petitioner stood automatically suspended. The petitioner was released from the jail on 2.6.1995. After his release, full pension of the petitioner has been restored and during the period with effect from 18.2.1986 to 1.6.1995 when the petitioner was undergoing imprisonment, his pension was forfeited which could admittedly have been done...."

25. It is evident from the above, that in terms of Para 29 or 29.1 of the ibid instruction, pension can be forfeited if the pensioner is convicted by any criminal court in a serious crime. However,

pension is again restored on release of the pensioner from imprisonment. In the case of the applicant's husband, even though his pension was stopped, but no action was taken to restore it in full after his release from jail in terms of the second part of the ibid instruction at Para 29.1 which has been applied in this case. It is unfortunate that the disbursing bank has acted on the first part of the ibid Para while sat idle so far as restoration part is concerned despite several correspondence by the Record Office and the pensioner and submission of all necessary documents required for the purpose.

26. We also find that even though husband of the applicant filed a statutory complaint to the Chief of Army Staff immediately after his retirement disclosing all facts as regards his conviction, but no decision of the said authority i.e. COAS is available from record. In fact, the Sr. Accounts Officer of the office of PCDA (P) had also asked for such decision for taking further action to continue the pension. Nothing has been done in this regard, as it appears. As a result, the pensioner died without getting any pension and now the widow, who is now more than 80 years of age, is suffering having become penny less and unable to maintain herself without any monetary assistance. This is a very sorry state of affairs that for want of communication amongst inter-departmental agencies the pensioner suffered and died and now the widow is also suffering for want of family pension.

27. In such a situation, we are of the opinion that urgent action is required to be taken by all concerned so that immediate relief is provided to the octogenarian widow so that she can survive at the last days of her life.

28. In the light of what has been stated in para 24 to 27 above, we dispose of this application by issuing the following directions:-

- (a) The applicant shall file a detailed representation annexing all necessary documents along with a copy of this order to the Chief of Army Staff (respondent No. 4) within a period of 15 days from the date of this order, copies of which shall also simultaneously be forwarded to the EME Records (respondent No. 1), PCDA (P) (respondent No. 3), Allahabad as also concerned Bank Manager (respondent No. 5).
- (b) Upon receipt of such representation, the COAS shall decide and dispose of the matter for grant of family pension to the widow applicant within 90 days thereafter. So far as forfeited pension of her late husband is concerned, appropriate decision may also be taken

in accordance with rules and if such pension is decided to be restored from the date of release of the convict pensioner, then the arrears be paid to the present applicant being his widow within the aforesaid period. The applicant is also held entitled to get interest @ 10% per annum on such arrear amount of pension –both family pension and left out service pension of her deceased husband which shall be payable by the pension disbursing Bank i.e. respondent No. 5 from their own resources since it is for their inaction that the applicant has suffered.

(c) However, considering the fact that the widow applicant has suffered a lot and is now in penury, pending final decision in the matter, the COAS may considering sanctioning an ad hoc payment of financial assistance not less than the minimum family pension admissible as per rules, which, if necessary, may be adjusted from future payment.

(d) No cost.

29. Let original records be returned to the respondents on proper receipt,

30. Let a plain copy of the order duly countersigned by the Tribunal Officer be furnished to both parties on observance of due formalities.

(LT. GEN. K.P.D.SAMANTA)
MEMBER (ADMINISTRATIVE)

(JUSTICE R.N.RAY)
MEMBER (JUDICIAL)