

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

APPLICATION NO. M.A. 17 OF 2019

(Arising out of M. A. No.83/2016

WITH O. A. NO. 107/2015)

DATED : THIS *Eighth* DAY OF MARCH, 2019

CORAM

HON'BLE DR. (MRS.) JUSTICE INDIRA SHAH, MEMBER (JUDICIAL)

HON'BLE LT GEN GAUTAM MOORTHY, PVSM, AVSM, ADC, MEMBER (ADMINISTRATIVE)

- APPLICANT (S) : (1) Union of India, Service through  
The Secretary,  
Ministry of Defence  
South Block, New Delhi – 110 001
- (2) The Chief of Air Army Staff  
Air Head Quarters,  
Vayu Bhavan, Rafi Marg, New Delhi – 110 011
- (3) The Air Officer  
Commanding Record Office,  
Subroto Park, New Delhi – 110 001
- (4) The Principal Controller of  
Defence Accounts (Pension)  
Draupadighat, Allahabad, U. P. – 211 014
- (5) The Deputy CDA (AF)  
Subroto Park, New Delhi – 110 001

**Versus**

- RESPONDENT(S) (1) Smt. Dipsikha Sarkar  
w/o Late Nirmal Kumar Sarkar  
"Dui Kanya" Old Police Line  
P.O. & P. S. – Jalpaiguri
- (2) Km. Nandini Sarkar  
"Dui Kanya" Old Police Line  
P. O. & P. S. – Jalpaiguri  
District : Jalpaiguri,  
West Bengal, Pin – 735101
- (3) Km. Niranjana Sarkar  
"Dui Kanya" Old Police Line,  
P. O. & P. S. – Jalpaiguri,  
District : Jalpaiguri, West Bengal, Pin - 735101

Counsel for the Applicant(s) : Mr. Jagadish Ranjan Das,Ld. Advocate

Counsel for the Respondent(s) : Mr. Ashish Kumar Chatterjee,Ld.Advocate

**ORDER**

**PER LT GEN MOORTHY, PVSM, AVSM, VSM ADC, MEMBER (ADMINISTRATIVE)**

1. This is M. A. 17 of 2019 arising out of O. A. 107 of 2015.
2. In the M. A., the applicant has prayed for modification/rectification of judgment dated 05.06.2018 passed by this Bench in O. A. 107 of 2015 in the order 107 of 2015 passed passed by this Bench on 5 June, 2018.
3. In Para 12, this Bench had ruled:

*“12. In view of the above, it is clear that the applicant is entitled to pension of her husband in the rank of Sergeant w.e.f. the date it was applicable to him, i.e., 01.03.1988 as it was illegally denied to her husband by the authorities. This should have been revised by the authorities concerned automatically after the issuance of GOI, MoD letter dt. 12.11.2008 consequent to the recommendations of 6<sup>th</sup> CPC.”*
4. However, as brought out in the M. A.; in keeping with the earlier judgment having the same ratio, various co-ordinate Benches of the Tribunal had directed pensioners to fix pension on the last rank held by the petitioner with effect from 01.01.1996 or date of discharge whichever is later, in terms of policy of the Government dated 9 Feb 2001. Accordingly, the date in Para 12 of our Order will read as 01.01. 1996, not 01.03.1988.
5. The M. A. accordingly is allowed.
6. No order as to cost.
7. Let a plain copy of the order duly counter-signed by the Tribunal Officer be supplied to all the parties upon observance of usual formalities.

(LT GEN GAUTAM MOORTHY)  
MEMBER (ADMINISTRATIVE)

(JUSTICE INDIRA SHAH)  
MEMBER (JUDICIAL)