

FORM NO – 4
(SEE RULE 11 (1))
IN THE ARMED FORCES TRIBUNAL, KOLKATA BENCH
ORDER SHEET

APPLICATION No. O.A. No. 53/2012

APPLICANT (S)	Dina Nath Banerjee
RESPONDENT (S)	Union of India & 4 Ors
Legal Practitioner for applicant (s)	Legal practitioner for Respondents
None	Lt. Col. Mukul Dev

<u>ORDERS OF THE TRIBUNAL</u>	
	Order Serial Number: <u>4</u> Dated : 22.08.2012
	<p>By this application, the applicant has prayed for a direction upon the respondent authorities to provide extended family pension, insurance benefits under Army Group Insurance Scheme, General Provident Fund, leave encashment and other allowance whatever was due to the deceased as the death benefit. The applicant is the younger brother of ex Sepoy Premnath Banerjee who expired on 30.08.1959 while was serving at Jammu & Kashmir by falling down in a river. After his death, his parents were granted family pension but after their death the present applicant who is brother of the deceased has prayed for extending the said benefits as well as certain alleged dues. To that effect the applicant communicated to the respondent authorities who replied vide their communication dated 17.3.2012. The contents of the said communication is quoted hereinbelow:-</p> <p style="margin-left: 40px;"><i>“ ...2. The case has been examined . Your brother No. 6583443 Late Sepoy (Mechanical Transport) Prem Nath Banerjee was enrolled in the Army on 08 Oct 1952. As per record, the individual had met with an accident and fell down in ravine and drowned under water (body was not recovered) on 30 Aug 1959 while serving in Jammu & Kashmir. The individual at the time of his death, he was unmarried and had nominated</i></p>

his father Shri Phanindera Nath Banerjee as his Next of Kin.

3. As per Para 216 of Pension Regulations for the Army, 1961, Part I, the following members of the family of a deceased individual shall be viewed as eligible for the grant of a family pension provided that they are other qualified:-

(a) Widow lawfully married;

(b) Parents;

© Son – actual and legitimate (including validly adopted) upto 25 years of aged, unmarried or starts earning his livelihood which is earlier;

(d) Daughter- actual and legitimate (including validly adopted) upto 25 years of aged, till date of marriage or starts earning her livelihood, whichever is earlier;

(e) In addition, the following are also eligible for family pension as per the latest policy issued by the Government of India, Ministry of Defence letter No. B/38207/AG/PS4(b)/931/B/D (Pens/Sers) dated 26 August, 1998 and A/49601/AG/PS4(e)/3363/B/D (Pension/Service) dated 27 Aug 1987 respectively:-

(i) Widow/Divorce daughter – For life or disqualification i.e. marriage/employment whichever is earlier;

(ii) Handicapped child – For life time or disqualified after employment/marriage whichever is earlier;

4. Since the deceased was unmarried at the time of his death, Special Family Pension was granted with effect from 31 Aug 1959 to his father Shri Phanindera Nath Banerjee, being a nominated heir of the deceased. The same was continued to Smt. Kiran Bala Devi, mother of the deceased with effect from 01 Aug 1960 for life vide Controller of Defence Account (Pension) Allahabad Pension Payment Order No. F/2803/63. Smt. Kiran Bala Devi death on 07 Apr 2007. Thereafter the Family Pension was discontinued. No Government orders for grant of Family Pension to the brother/sister has been issued till date. Also, there is no provision for grant of monetary relief to the younger brother of deceased soldier. “

Apart from the fact that the deceased died in the year 1959. In view of the clear provision, relating to the payment of the family pension, the applicant is not entitled for the same. That apart, the applicant does not fall within the category of persons who are entitled to make such claim under Section 2(2) of the AFT Act.

In view of the above discussion, we do not find any merits in the application and it stands dismissed.

Lt. Col. Mukul Dev from Legal Cell, HQ Bengal Area appears on behalf of the respondents.

Plain copy of the order be given to the parties.

(Lt Gen K.P.D. Samanta)
Member (Administrative)

(Justice H N Sarma)
Member (Judicial)