

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

APPLICATION No. O.A.No. 43/2015

APPLICANT (S)	Smt. Chhaya Mallik
RESPONDENT (S)	Union of India & 4 Others
Legal Practitioner for Applicant (s)	Legal practitioner for Respondents
Mr. Gouri Sankar De	None

	<p style="text-align: center;"><u>ORDERS OF THE TRIBUNAL</u></p> <p><u>Order Serial Number:</u> 1 <u>Dated :</u> 11.06.2015</p>
	<p>Mr. Gouri Sankar De, learned counsel appears for the applicant. He files affidavit of service which is taken on record. No counsel is present on behalf of the respondents. However, Major, Narendra Singh, OIC, Legal Cell, HQ Bengal Area is present.</p> <p>Mr. De submits that after the death of CFN Samir Kumar Mallik, on 26.08.2009, his mother Smt. Chhaya Mallik, the applicant, has preferred this application claiming entire family pension of her son late Samir Kumar Mallik on the ground that the widow of late Samir Kumar Mallik remarried on 21.10.2014 and thus the widow is no longer a family member of her late son. According to the submission of the learned counsel for the applicant the policy decision of the Army is not correct and does not have any nexus to the children of the deceased children. According to OIC, Legal Cell, according to the policy of the Army in vogue, the pension of the deceased soldier is paid to the next of kin (NOK), who is wife of the deceased soldier she being next in hierarchy, irrespective of the fact that she gets remarried afterwards. This policy encourages resettlement of the widow after the death of the soldier.</p> <p>Now the question comes as to whether after remarriage of the widow of the deceased soldier, the entire family pension should be diverted to the parents?</p> <p>Keeping in view the Indian tradition and family life, is it justified to pay the family pension to the widow of the deceased soldier even after her remarriage ?</p> <p>However, we admit the application. Issue notice to the respondent No. 5, widow of the deceased soldier to be present on the next date. The respondent Nos. 1 to 4 shall file their affidavit in</p>

opposition to the OA within four weeks and applicant shall file rejoinder to that within two weeks thereafter.

List the matter on 03.08.2015 for further order.

A plain copy of the order, duly countersigned by the Tribunal Officer, be given to the parties upon observance of all usual formalities.

(Lt Gen Gautam Moorthy)
Member (Administrative)

(Justice Devi Prasad Singh)
Member (Judicial)