



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-19703-2025

DATE OF DECISION: 16.07.2025

Union of India and others

... Petitioners

Versus

Rukmani Devi and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Dharam Chand Mittal, Advocate for the petitioners.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners have challenged the order dated 22.02.2022 (Annexure P-5) passed by the Armed Forces Tribunal, whereby the petitioners have been directed to consider the claim of Liberalized Family Pension of respondent No.1.

2. Learned counsel for the petitioners submits that the Tribunal has erred in relying upon the judgment passed by the Tribunal in OA No.77 of 2003, *Smt Harvinder Kaur Vs. Union of India and others*, decided on 04.09.2017 (Annexure P-6) although the case of the respondent No.1 is distinguishable. The OA of Harvinder Kaur was allowed on the factum that her husband having participated in 'Operation Parakram' had died when the said operation was ongoing. The son of the respondent No.1 herein had died on 21.10.1991 and had not participated in 'Operation Parakram'. There is an inordinate delay of more than 25 years in filing of the OA in 2018 while her son had expired in 1991.

3. Heard.



4. The son of respondent No.1 was an Indian Army Personnel and on duty in 'Operation Rakshak' in the Jammu and Kashmir, had expired on 21.10.1991 due to firearm injury sustained by him when a gunshot had been fired by a fellow soldier. This is to be considered as a 'Battle Casualty' vide Army Air Defence Records Part-II order No.01/BC/05/002 dated 27.08.1992, as the death has taken place during the said operation and there is no dispute that the son of the respondent No.1 was indeed deployed in 'Operation Rakshak' at the time of his death. The instructions issued by the Government of India, Ministry of Defence in the month of January, 2001 are applicable to all the Armed Forces Personnel, who are deployed in the military operations across India. These instructions provide that all disabilities, injuries, accidents and deaths occurring during operations which are notified by the Government, fall under category 'E' of Para 4.1 of the said instructions and the relevant extract of the instructions are reproduced hereunder:-

"PART II- PENSIONARY BENEFITS ON DEATH/DISABILITY IN ATTRIBUTABLE/AGGRAVATED CASES

4.1 For determining the pensionary benefits for death or disability under different circumstances due to attributable/aggravated causes, the cases will be broadly categorised as follows:

Category A

Death or disability due to natural causes neither attributable to nor aggravated by military service as determined by the competent medical authorities. Examples would be ailments of nature of constitutional diseases as assessed by medical authorities, chronic ailments like heart and renal diseases, prolonged illness, accidents while not on duty.

Category B

Death or disability due to causes which are accepted as attributable to or aggravated by military service as determined by the competent medical authorities. Diseases contracted because of continued exposure to a hostile work environment, subject to extreme weather conditions or occupational hazards resulting in death or disability would be examples.

Category C

Death or disability due to accidents in the performance of duties such as:-

- (i) Accidents while travelling on duty in Government Vehicles or public/private transport*
- (ii) Accidents during air journeys*
- (iii) Mishaps at sea while on duty*
- (iv) Electrocution while on duty, etc.*



(v) *Accidents during participation in organised sports events/adventure activities/expeditions/ training.*

Category D

Death or disability due to acts of violence/attack by terrorists, antisocial elements, etc whether on duty other than operational duty or even when not on duty. Bomb blasts in public places or transport, indiscriminate shooting incidents in public, etc. would be covered under this category, besides death/disability occurring while employed in the aid of civil power in dealing with natural calamities.

Category E

Death or disability arising as a result of:-

- (a) enemy action in international war.*
- (b) action during deployment with a peace keeping mission abroad.*
- (c) Border skirmishes.*
- (d) during laying or clearance of mines including enemy mines as also minesweeping operations.*
- (e) on account of accidental explosions of mines while laying operationally oriented mine-field or lifting or negotiating minefield laid by the enemy or own forces in operational areas near international borders or the line of control.*
- (f) war like situations, including cases which are attributable to/aggravated by:-*
 - (i) extremist acts, exploding mines etc, while on way to an operational area*
 - (ii) battle inoculation training exercises or demonstration with live ammunition.*
 - (iii) kidnapping by extremists while on operational duty.*
- (g) An act of violence/attack by extremists, anti-social elements etc*
- (h) Action against extremists, antisocial elements, etc. Death/disability while employed in the aid of civil power in quelling agitation, riots or revolt by demonstrators will be covered under this category.*
- (i) Operations specially notified by the Govt from time to time.”*

5. It is manifest that a soldier deployed in a military operation, being shot by a fellow soldier, cannot be in any manner, denied the benefits, which would be applicable to those soldiers who are killed in action. It also deserves to be noticed that the order of the Tribunal in the case of **Smt Harvinder Kaur Vs. Union of India (supra)** has attained finality.

6. Furthermore, we do not find any merit in the contention of learned counsel that there is delay in filing the O.A. as Pension, which an employee who has served the nation would be entitled to every month, is a continuous cause of action. Reference can be made to the judgment of the Supreme Court in **Shri M.L. Patil (dead) through LRs Vs. State of Goa, (2023) 1 SCC 660**. The relevant extract of the judgment is reproduced hereunder:-



“XXXXX

However, as far as the pension is concerned, it is a continuous cause of action. There is no justification at all for denying the arrears of pension as if they would have been retired/superannuated at the age of 60 years. There is no justification at all by the High Court to deny the pension at the revised rates and payable only from 1st January, 2020. Under the circumstances, the impugned judgment and order passed by the High Court is required to be modified to the aforesaid extent.

Xxxxx”

7. In view of the above, we do not find any illegality in the impugned order passed by the Tribunal. The petition stands dismissed accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

16.07.2025

sapna

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No