

(1994) 09 SC CK 0014

In the Supreme Court Of India

Case No : Writ Petition (C) No. 294 of 1990

Kanta Devi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 20-09-1994

Acts Referred:

Citation : (1995) 2 LLJ 271 : (1995) 109 PLR 244 : (1994) 4 SCALE 191 :
(1994) 6 SCC 300 : (1994) 3 SCR 710 Supp : (1995) 1 UJ 5

Hon'ble Judges : Kuldeep Singh, J; B. L. Hansaria, J

Bench : Division Bench

Advocate : A.P. Mohanty and S. K. Sabbarwal, for the Appellant; Shashi Kiran and Anil Katiyar, for the Respondent

Final Decision : Allowed

Judgement

B.L. Hansaria, J.—The petitioner, a widow of an ex-serviceman, has made a grievance, and rightly, that she is not being paid family pension only because she was married to the ex-serviceman after his retirement from active service. This has come to happen because Para 6 of the Army Instructions No. 51 of 1980 which has defined "Family", though includes wife, says in Note (2) that marriage after retirement will not be recognised.

2. The petitioner has assailed the reasonableness of this provision and we have no difficulty in agreeing with the petitioner inasmuch we cannot countenance the stand and submission that marriages after retirement are performed with an eye to get family pension. This thinking is really abhorrent. As persons retire early from armed services, they remain of marriageable age in many cases and do need company of a consort to be with them in times of distress. As family pension becomes due on the death of the incumbent, the rider contained in the Note is indeed a harsh and heartless provision, as it denies family pension to those who shared the difficulties of the ex-servicemen faced after their retirement.

3. In view of the above, we strike down Note (2) because of its irrationality and direct the respondents to pay family pension to the petitioner, as if the aforementioned Army Instructions had not contained Note (2). All the required actions shall be taken within three months from today.

4. The petition is allowed accordingly. Cost assessed at Rs. 5,000.