**Balraj Singh Rathee Office cum Residence:-**

**Advocate**

Supreme Court of India & # 24, Vasant Vihar, Phase – I,

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**Ref. No. Legal Notice/BS/80/2017 Dated: 10-06-2017**

**Registered Post**

To,

1. Union of India through Defence Secretary

Govt. of India, Ministry of Defence

101-A, South Block, New Delhi-110 011

1. Principle Controller of Defence Accounts (P)

(OIC Grants 3 Sections),

Draupadi Ghat, Allahabad (U.P.) 211 014

1. Record Officer

Armoured Corps Records

Ahmednagar – 414 001

**Subject: Legal Notice : Grant of Special Family Pension to Smt. Suman Ravish Wd/o Ex-Sep Virender Singh (No. 15500932, Last Unit : 07 CAV, C/o Armed Corps Record)**

**Sir,**

Under the instructions and on behalf of my client namely **Smt. Suman Ravish Wd/o** **Ex – Sep Virender Singh (No. 15500932 Last Unit: 07 CAV) D/o Ranbir Singh presently residing at H. No. 333, Near Shiv Mandir, V. & P.O. Kichhana, Tehsil & District Kaithal,** I hereby serve upon you, the following Legal Notice:-

1. That the husband of my client namely Late Sep Virender Singh(No. 15500932) joined Indian Army on 06-05-2005 and served at different places and in different climatic conditions. He died on 29-12-2011 due to “**CARDIAC ARREST**” when on sick leave, since he discharged from Command Hospital (WC) Chandimandir on 28-12-2011.
2. That it is pertinent to mention here that my client’s husband while on leave suffered an accident and admitted in Command Hospital (WC) Chandimandir on 07-12-2011 and discharged on 28-12-2011 and recommended with six weeks sick leave. On 29-12-2011 at around 07:50 am he suffered heart attack and the Post Mortem was conducted by PGIMS, Rohtak and the Medical Board opined the cause of death as heart attack.
3. That when husband of my client joined India Army, he was medically fit in all respects Due to work load of service and different climatic conditions and affected by stress and strain of service, he acquired heart disease and died. This disease has been caused during service, so his death is attributable and aggravated to military service. As per pension regulation for Indian Army Annexure III to Appendix II:-

**Classification of Disease**

**B. Disease Affected by Stress and Strain**

**12. Myocardial Infarction, and other forms of IHD.**

4. That Sub Section-II Family Pension and Gratuity of the pension regulation of the Army reads as under:-

**“Sub section –II Family Pension and Gratuity, Special Family Pension”**

**213. A Special family pension may be granted to the family of an individual if his death was due to or hastened by:-**

**(a) A wound, injury or disease which was attributable to military service.**

**OR**

**(b) The aggravation by military service of a wound, injury or disease which existed before or arose during service.**

5. That as per the law settled by **Hon’ble Supreme Court of India** in case titled as “**Dharamvir Singh Vs. Union of India & Ors.”** reported as **2013 (4) RSJ 321**, **“Union of India & Anr. Vs. Rajbir Singh”** reported as **2015 (1) RSJ 775** and **“Union of India & Anr. Vs. Angad Singh Titaria”** reported as **2015 (3) RSJ 89** held that the disease which has led to an individual’s discharge or death will ordinarily be deemed to have arisen in service, if no note of it was made at the time of individual’s acceptance in military service. However, if medical opinion holds that the disease could not have been detected at the time of enrolment, the disease will not be deemed to have arisen during service. In that case, it is important that medical opinion must contain valid reasons that the disease is not attributable to service. The relevant para No. 14 & 15 of the last judgment in case of **“Union of India & Anr. Vs. Angad Singh Titaria”** reported as **2015 (3) RSJ 89**  held that:-

14. Thus, a plain reading of sub-rule (b) of Rule 14 makes it abundantly clear that a disease which has led to an individual’s discharge or death will ordinarily be deemed to have arisen in service, if no note of it was made at the time of the individual’s acceptance for military service. However, if medical opinion holds that the disease could not have been detected at the time of enrolment, the disease will not be deemed to have arisen during service. In that case, it is also important that the medical opinion must contain valid reasons that the disease is not attributable to service.

15. Recently, this Court in a similar case **(Union of India & Anr. Vs. Rajbir Singh (Civil Appeal Nos. 2904 of 2011 etc.)** decided on 13th February, 2015) after considering Dharamvir Singh (supra) and upholding the decision of the Tribunal granting disability pension to the claimants, observed:

“... The essence of the rules, as seen earlier, is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into service if there is no note or record to the contrary made at the time of such entry. More importantly, in the event of his subsequent discharge from service on medical ground, any deterioration in his health is presumed to be due to military service. This necessarily implies that no sooner a member of the force is discharged on medical ground his entitlement to claim disability pension will arise unless of course the employer is in a position to rebut the presumption that the disability which he suffered was neither attributable to nor aggravated by military service. ... ...

Last but not the least is the fact that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability at times even before they completed their tenure in the armed forces. ... ...

There may indeed be cases, where the disease was wholly unrelated to military service, but, in order that denial of disability pension can be justified on that ground, it must be affirmatively proved that the disease had nothing to do with such service. The burden to establish such a disconnect would lie heavily upon the employer for otherwise the rules raise a presumption that the deterioration in the health of the member of the service is on account of military service or aggravated by it. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same”.

1. That in number of cases Hon'ble High Court’s as well as Hon'ble Supreme Court of India has held that death due to HEART ATTACK is attributable to Military Service as the forces are always kept on high alert as well as being a discipline force high standard of discipline is maintainable all the times which leads to stress and strain among the service personnel and ultimately leads to the disease of heart failure.
2. That my client sent her appeal dated 23-07-2013 for grant of Special Family Pension and further sent appeal dated 28-09-2014 but no action has been taken till date.
3. That similar matter has been decided by Hon'ble High Court in case of “**Ranjit Kaur Vs. Union of India**” reported as **2010 (1) RSJ 354,** **CWP No. 2275 of 2007** titled as “**P.N. Annamma Vs. Union of India”** **decided on 03-04-2008** and **CWP No. 7998 of 2009** titled as **“Tanushree Balhara & Anr. Vs. Union of India”** decided on 14-09-2009 and Hon'ble Armed Forces Tribunal, Chandigarh Bench in **O.A. No. 3688 of 2013** titled as **“Smt. Yashwanti Prasher Vs. Union of India**” decided on 16-04-2014 and **O.A. No. 642 of 2011** decided on 22-02-2016.
4. That further it is pertinent to mention here that **Hon'ble Supreme Court** in case titled as **“K.T. Veerappa & Others Vs. State of Karnataka & Ors** reported as **2006 (2) RSJ 773** and another judgments of this Hon'ble High Court titled a **“Gandhi Ram (through his LRs) Vs. State of Haryana & another**” reported as **2007 (1) RSJ 413** held that once relief has been given to the similarly situated petitioners then the present petitioner is also entitled for the same.
5. That my client is entitled for Special Family Pension w.e.f. 29-12-2011 with interest @ 12% per annum for the delayed payment.

In view of above and on behalf of my client, I hereby call upon you by way of the present legal notice to grant the Special Family Pension to my client w.e.f. 29-12-2011 with interest @ 12 % for delayed payment within 15 days after receipt of this Legal Notice, failing which my client shall be constrained to approach the competent court of law and in that eventuality, you shall be liable for all the consequences and costs.

**Note:-** A copy of this Legal Notice has been retained in my office for record and further reference.

(Balraj Singh Rathee) Advocate