

FAMILY PENSION

Q.1. When does a family member become eligible for the grant of family pension?

Ans:- The family pension is to be drawn after the death of the pensioner. Normally, the name of all eligible family members are endorsed along with ordinary rate of family pension at the time of issue of Pension Payment Order and the eligible member is to approach the Pension Disbursing Authority for disbursement of family pension.

In case the name of eligible member of family is not endorsed in the Pension Payment Order, he/she shall approach to Dte of AV, Air HQ, Subroto Park, New Delhi-10 for necessary assistant. Further, his/her name will be endorsed in the PPO for grant of Family Pension.

Q.2. Is Ordinary family pension payable to more than one person at a time?

Ans:- Normally, the ordinary family pension is payable to one eligible member at a time. However, in certain specific cases, the ordinary family pension is divided among eligible members of the family. The family pension will be paid in equal shares where the deceased pensioner is survived by –

- (a) More than one widow (only where polygamy / polyandry is allowed).
- (b) A widow and an eligible child through another widow which she would have received had she been alive.
- (c) A widow and an eligible child from a divorced / illegally wedded wife; the child will be entitled to the share of family pension which the mother would have received had she not been divorced/had she been legally wedded.

Note:- In all the above cases, on the death of one recipient, his/her share of the family pension shall become payable to other member(s) of family who was/were sharing family pension with him/her.

Q.3. Is family pension is payable when both husband and wife are Govt Employees?

Ans:-

Yes, in case where both husband and wife are Government servants and if one of the two dies while in service or after retirement with a pension,

the ordinary family pension in respect of the deceased shall be payable to the widow/widower in addition to his pay or pension, as the case may be.

Further, in the event of death of both father and mother who were service personnel or one of them a Government employee, the surviving children shall be eligible to draw both the ordinary family pensions in respect of the deceased parents subject to the limits as prescribed by the Central Government from time to time.

Q.4. Is family pension payable to a spouse judicially separated?

Ans:- Family pension is not payable to a spouse judicially separated on the ground of adultery and who had been held guilty of committing adultery. Cases other than the ground of adultery may fall under the following two categories:-

(a) **Spouse with no eligible child to receive family pension.**

Family pension is payable to a spouse judicially separated provided there is no child who is eligible for family pension.

(b) **Spouse with an eligible child to receive family pension.**

Where a pensioner dies leaving behind a judicially separated spouse with an eligible child/children, the ordinary family pension payable in respect of the deceased, shall be payable to the surviving spouse provided he/she is the guardian of such child.

Where the surviving spouse has ceased to be the guardian of such child/children, such ordinary family pension shall be payable to the person who is the actual guardian of such child/children. When child/children cease to be eligible for family pension, payment of ordinary family pension shall be allowed to judicially separated spouse.

Q.5. What is enhanced family pension and for what period it is payable?

Ans:- Ordinary family pension is paid @ 30 % of reckonable emoluments last drawn by the deceased person. However, in the event of death of a Pensioner, the enhanced rate of family pension @ 50% of the reckonable emoluments last drawn is payable for a period of seven years or for a period up to the date of deceased would have attained the age of 67 years, whichever is earlier. Generally, it is the same amount of pension authorized to the pensioner. After the lapse of the period, the family pension is payable at the ordinary rate%.

Q.6. Is Ordinary family pension payable to a widow/widower after re-marriage?

Ans:- Family Pension granted to widow/widower will discontinue on re-marriage. However, Family Pension shall continue to be payable to a childless widow after her re-marriage if her income from all other sources is less than amount of minimum family pension and the dearness relief thereon.

Family pension is not available to a childless widower after his re-marriage.

Q.7. Is Family Pension payable to the eligible member(s) of family when a pensioner/family pensioner reported missing?

Ans:- Yes, when a pensioner/family pensioner is reported missing, his family is eligible for family pension at the ordinary or enhanced rates (as applicable) after six months from the date of lodging the First Information Report on submission of copy of FIR, non-traceable report and indemnity bond sworn before judicial magistrate to Dte of AV, Air HQ. It will accrue from date of the police report or from the date immediately succeeding the date till which pension/family pension had been paid, whichever is later. In case of individual is missing while in service, pension will start after "Presumed missing" certificate issued by Dte of PA, Air HQ, Rafi Marg, New Delhi – 110011.

Q.8. Is dual family pension authorised?

Ans:- Yes, with effect from 29 Sep 12 family of Air Force Pensioner who got re-employment in Civil or military Deptt/PSUs/Autonomous bodies/Local funds of Central/State Govt after getting retired from Air Force service and were in receipt of Air Force Pension till death, is/are eligible to draw family pension from Air Force service in addition to the family pension, if any authorised from the re-employed department.

Q 9. Whether any Discharge Certificate is issued to NoK/family pensioners of deceased pensioner?

Ans:- The Discharge Certificate in the form of book is issued to the Air Force Personnel (other than officers) at the time of their discharge from service. On his death the discharge certificate shall be returned to Dte of AV, Air HQ. Subsequently, a Service Particular Certificate is being issued to the NoK/family pensioner for retention.

Q.10. Is family pension payable when a member of the family charged with offence of murdering the pensioner?

Ans:- If an eligible member who in the event of death of pensioner, is eligible to receive family pension under extant Rules, is charged with the offence of murdering the pensioner/family pensioner or for abetting in the commission of such an offence, the claim of such a person including other eligible member or members of the family to receive family pension, shall remain suspended till the conclusion of the criminal proceedings instituted against him/her. If on the conclusion of the criminal proceedings, the eligible member concerned:-

(a) is convicted of the murder or abetting in the murder of the pensioner, such an eligible member shall be debarred from receiving the family pension which shall be payable to other eligible member of the family from the date following the date of death of the pensioner, or,

(b) Is acquitted of the charge of murder or abetting in the murder of the pensioner, the family pension shall be payable to such an eligible member from the date following the date of death of the pensioner.

Q.11. I am the mother of the late Airman, why should the wife get the pension when my son was not happy with her. Why can't I get the pension?

Ans. As per Pension Regulations, wife is the highest eligible heir for receiving family pension. How happy / un-happy your son was with your daughter in-law could have been an issue for divorce, had your son been alive. However, after his death, the only issue is the legality of marriage, your son's happiness/ unhappiness has no direct bearing on her eligibility for Family Pension. Mother is the highest eligible heir only for a bachelor Airman and also in the case of a married Airman when wife & children become disqualified for FP.

Q.12. Since the first wife is dead, why can't I get the pension as second wife?

Ans: When you married, the first wife was alive, therefore in legal terms, your marriage was void ab-initio and will remain null and void through out. The mere death of first wife does not change the void status of your otherwise illegal marriage.

Q.13. My husband and his first wife were under the process of mutual divorce; I met the first wife and took her clearance for my marriage. After six months of my marriage legal divorce was granted between the first wife and my husband. Therefore, I fail to understand as to what the problem is and why I am being denied my family pension?

Ans: Your actions may appear to be socially correct but they are wrong from the legal point of view. You should have married only after divorce of first wife. Till the divorce order by a court of law was issued to the first wife she continued to be the legal wife of your late husband. Since you married six

months before the date of divorce, therefore, your marriage was void ab-initio and will remain so forever. The consent of first wife does not confer legality on your marriage. Since, your marriage is void ab-initio, you are not eligible for grant of family pension.

Q.14. I am the mother of late Airman. His minor children from first wife are with me. After the death of his first wife my son had married another lady who does not look after the children born from my first daughter-in-law. Can I get pension on behalf of minor children of my first daughter-in-law?

Ans. Pension Regulations provide for division of pension between the children of first legal wife and the second legal wife (i.e. marriage after legal divorce / death of first wife). If after verification it is proved that you had been keeping the minor children with you from the first wife of the late Airman then you can produce a guardianship certificate and as a legal guardian of the minor child you will get 50% of the entitled pension till the child is 18 years of age, thereafter the child himself can receive his pension. The other 50% will go to the second wife. After the first child from first wife attains the age of 25 years, then the pension will go to the second child till he/she attains the age of 25 years. After all the children have become ineligible/disqualified for grant of family pension full pension will be restored to the second wife.

Q.15. My daughter-in-law is suspected of murdering my newly married son in connivance with her lover. She is pregnant and in police custody. She is a blot on the name of woman-hood. Please make sure that no pension is paid to her and I am paid pension as mother.

Ans: As per Pension Regulations when an eligible heir is suspected of murder she will not be paid with any pensionary benefits till the final decision of the court. However, as per law every accused is innocent till proved otherwise in the court of law. Therefore, as per Pension Regulations family pension will remain frozen and will not be paid to any other eligible heir including you till the final court judgment. Even if your daughter-in-law is convicted, since she is pregnant her child will be the next highest eligible heir for family pension. Since you are alleging that the child belongs to the lover and not to your son, you are at a liberty to request for a DNA test and get a suitable order from a court of law in this matter. No family pension will be disbursed in this case till the court gives an order on either convicting or releasing your daughter-in-law. Further, in case the daughter-in-law is convicted the onus of proving your allegation that the child belongs to her lover and not to your late son squarely rests on you. If you fail to get a suitable court order the pension will go to the legal guardian of the child.

Q.16. My husband has died recently and I went to collect my Family Pension from the bank as per joint notification. However, there is a difference of my name in the joint notification and the account I have with the bank. The bank has refused to pay me Family Pension. Please advice me and help me.

Ans: Family Pension has a history of conflict between the legal and the illegal wife for grabbing family pension. Since only the legal wife is entitled for Family Pension therefore, the checks and balances at every Govt agency in terms of correct name of the widow and her correct identity are very critical for commencing Family Pension. Your husband should have been very careful in ensuring that your name has been written correctly in his service records. We have instances of widows who have fought for ten to twenty years in a court of law to prove their status as a legal wife. An investigation through our Air Force Police will be carried out and thereafter, based on the established facts we will give you a suitable advice on future course of action.

Q.17. My husband left Air Force as a bachelor and married me after two years of retirement. Since you have written that as per the records at DAV he was a bachelor. Please advice me and help me.

Ans: Your husband was drawing pension and therefore, he must be aware that his wife will be entitled for family pension. Not informing about his marriage and birth of children after his discharge to this office was a grave lapse on his part. Now, you will have to satisfy certain legal and procedural formalities to prove that you are his legally wedded wife and that your children were born out of marriage with him., We will do our own enquiry in this matter and advise you on this aspect.

Q.18. My husband has been declared as a deserter and dismissed from service. However, I feel that he is missing and has probably died in un-fortunate circumstances. I have no money and no one is there to look after me. Please advice and help me.

Ans: Desertion is a serious offence for any fighting force. Therefore, till your husband is a deserter no financial benefits can be given to you. Since you feel that he is not a deserter and he might have died under un-fortunate circumstances. You have to lodge an FIR with the nearest Police Station about your husband being missing stating the date of missing and complete details, if the FIR has already not been registered. Thereafter, collect a copy of the FIR and the status report from Police that he is not traceable/missing and forward the same with an application to DAV with a copy to the last unit of your husband. We will write to the last unit of your husband to carry out a fresh Court of Inquiry into this matter in accordance with Air HQ letter No. Air HQ/40295/PA-III dated 08 Sep 99. If based on this inquiry, it emerges that your husband is not a deserter but a missing presumed dead person then your case for Family Pension would be considered. In addition to this provision, you also have the option to go to a court of law (after seven years of your husband

presumably being missing) under section 108 of Indian Evidence Act. If the court declares your husband as a missing presumed dead person, then again your case for Family Pension could be considered. However, please be informed that any deliberate attempt by you for wrongful financial gains by willfully hiding the fact of his desertion can subsequently result in criminal proceedings against you.

Q.19 I am an employed lady with State / Central Govt, my husband has expired, since I am earning a handsome salary, will I get family pension or not?

Ans: Yes, you are entitled for Family Pension of your deceased husband along with applicable rate of Dearness Relief irrespective of your pay scale. This is a privilege given to all legally wedded wives.

Q.20. What is the procedure for withdrawing pension of an insane /physically handicapped pensioner?

Ans: The procedure for such an eventuality is given in Para 38 of Pension Payment Instructions. In order to protect the interests of the pensioner certain checks and balances are there in this procedure. Please write to DAV for a detailed advice on this matter.

Q.21. If a new pay commission is implemented then will my pension get revised?

Ans: The decision as to whether the pension is to be revised or not has to be taken by the Govt. If the Govt decides to revise the pension, then going by the past experience it is expected that revision orders with revision table (old rate versus new rate) will be forwarded to Pension Disbursing Offices (Banks, Treasury and DPDO) who will be responsible for automatic revision of pension. This office will have no direct role on this matter, however, if a representation is received at this office, suitable advice will be given to pensioners.

Q 22. Family pension is payable up to which period and in which order of members of family?

Ans: Family pension is payable to one member of the family at a time in the order and for the period as under:-

(a) **To the Spouse.** On death of the pensioner, the family pension will continue till death or remarriage of spouse, whichever is earlier. Family Pension shall continue to be payable to a childless widow after her re-marriage if her income from all other sources is less than amount of minimum family pension and the dearness relief thereon.

(b) **To Son/Daughter.** When widow or widower becomes ineligible, children below 25 years of age in the order of their age, up to 25 years of age or till they get married or till they start earning more than the amount of minimum family pension along with dearness relief thereon.

(c) **To Permanently disabled (mentally/physically) child.** After (a) & (b) above; for the lifetime to any son/daughter who is suffering from disorder or disability of mind (including mentally retarded) or physically crippled or disabled and who is unable to earn a living.

(d) **To widowed/divorced/unmarried daughters.** In case the eligibility of all categories of claimant mentioned in clause (a) to (c) above ceases to be payable, the widowed/divorced/unmarried daughters is eligible for grant of family pension even beyond 25 years of age in the order of seniority of their age.

(e) **To the dependent parents – first mother, then father.** When claimants in clauses (a) to (d) above die or become ineligible, the family pension would be allowed to dependent parents. In such case the mother will receive the pension first and after her death the father will receive the family pension. A mother who becomes widow has not re-married remains eligible.

(f) **To the permanently disabled dependent siblings.** When family pension to all above ceases to be payable, the family pension will be allowed to the permanent disabled siblings.

Note:- In all above cases, eligible family members will simultaneously send an intimation of death of pensioner/family pensioner to the Dte of AV, Air HQ along with attested copy of death certificate duly issued by Registrar of Births and Deaths.