

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
COURT NO. 2

O.A. No. 04 of 2015

Tuesday, this the 29th day of March, 2016

**“Hon’ble Mr. Justice D.P. Singh, Judicial Member
Hon’ble Air Marshal Anil Chopra, Administrative Member”**

JC-834158 W Sub Ravindra Singh Chauhan, S/o Narsingh Pal
Singh, Vill & Post Paronkh, Distt Mainpuri (U.P.)

..... **Applicant**

Versus

1. Union of India, through its Secretary, Ministry of Defence, New Delhi-110011
2. Chief of Army Staff, Army HQ, New Delhi.
3. Officer-in-Charge, Records, Army Postal Service, Kamptee-PIN 900746 C/O 56 APO.
4. PCDA (Pension) Allahabad.

.....**Respondents**

**Ld. Counsel appeared for the Applicant - Shri K.K. Mishra,
Advocate**

**Ld. Counsel appeared for the Respondent –Shri Sunil Sharma
Central Govt.
Standing Counsel**

ORDER (ORAL)

1. Present Application under section 14 of the Armed Forces Tribunal Act 2007 has been preferred by the Applicant seeking prayer for rounding off of disability pension, which was assessed as 20%, to 50%.

2. We have heard Shri K.K. Mishra learned counsel for the Applicant and Shri Sunil Sharma, learned counsel for the respondents and perused the record.

3. It would appear that the Applicant was enrolled in the Indian Army on 31.03.1994 and was discharged from service on 30.06.2013 on account of being in low medical category. The Medical Board opined the disability to be aggravated and connected with Military service.

4. The submission of the learned counsel for the applicant is that in view of settled propositions of law, the disability quantified at 20% ought to have been rounded off to 50%. The representation preferred by the Applicant on this count was rejected vide communication dated 09.04.2014 on the ground that the benefit of rounding off was applicable only to those personnel who were invalided out of service before completion of service.

5. Learned Counsel for the applicant has placed reliance on a decision of Apex Court in **Union of India and Ors vs. Ram Avtar & ors in Civil Appeal No 418 of 2012 dated 10th December 2014** and submitted that after the judgment of the Hon'ble Supreme Court delivered in Civil appeal No.418/2012 **Union of India & Others Vs. Ram Avtar dated 10.12.2014**, the issue is no more *res inte gra* as the Hon'ble Supreme Court dismissed hundreds of SLPs preferred by the Union of India challenging the award of rounding off of the disability pension to the persons, including the persons who were assessed medically disabled at the time of superannuation or on

completion of tenure of engagement as well as the persons who themselves sought voluntary retirement and specifically held as under :-

"We do not see any error in the impugned judgment(s) and order(s) and therefore all the appeals which pertain to the concept of rounding-off of the disability pension are dismissed, with no order as to costs"

6. It would thus transpire that by this brief judgment, the Hon'ble Supreme Court has rejected the respondents/Union of India's contention that the benefit of rounding off of disability pension is only available to the Armed Forces persons who are invalidated out of service and not to any other category of Armed Forces personnel.

7. The learned counsel for the Respondents drew our attention to another order of Principal Bench, a copy of which has been annexed as Annexure C A 7.

8. Having considered the submissions in all its pros and cons, we are of the view that the issue as involved in this case is no more res-integra.

9. In the result, we allow the O.A and direct the respondents to round off the disability pension of the applicant from 20% to 50% with all consequential benefits within a period not exceeding four months from the date of service of certified copy of this order.

10. There shall be no orders as to costs.

(Air Marshal Anil Chopra)
Member (A)
MH

(Justice D.P. Singh)
Member (J)