

**COURT NO.1****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 534 of 2017**Wednesday, this the 06<sup>th</sup> day of December, 2017**“Hon’ble Mr. Justice D.P. Singh, Member (J)****“Hon’ble Air Marshal BBP, Sinha, Member (A)”**

N. 734900 R, Ex SGT Lalit Kumar Sharma S/o Late Jugal Kishore Sharma R/o H. No. 529/537A, Rahimnagar, Mahanagar, Dist-Lucknow (U.P.)- 226002

**..... Applicant**

Ld. Counsel for the : **Shri V.P. Pandey, Advocate** Applicant  
(Counsel for the applicant)

**Versus**

1. Union of India through Secretary, Ministry of Defence, 101 South Block, New Delhi-110011.
2. Chief of the Air Staff Head Quarter.
3. Officer- In Charge, Records, Subroto Park New Delhi.
4. Deputy CDA (AF) Joint Controller of Defence Accounts Air Force, New Delhi- 110011.

**...Respondents**

Ld. Counsel for the: **Shri D.K. Pandey, Advocate,**  
Respondents. Addl. Central Govt Standing Counsel.

**Assisted by : Sgt Pradeep Kumar, SNCO I/C Legal Cell.**

**ORDER (ORAL)**

1. Present O.A has been preferred under section 14 of the Armed Forces Tribunal Act for the relief of rounding off of disability from 42% to 50% in terms of the Policy decision of the Government of India as contained in letter dated 31.01.2001 and also regard being had to the various decisions of the Apex Court.

2. The Applicant in the instant case was enrolled in the Indian Air Force on 10.07.1995 and was discharged on 04.10.2013 on completion of 18 years, 2 months and 26 days of service. It is averred that the disability was detected on 17.11.2006 at Pune which was described as PIVDL5-S1 (OPTD) and was opined to be attributable to and aggravated by Air Force Service but he was allowed to continue in service till 2013. Before discharge, he was brought before Release Medical Board which assessed the disability as 20% for life. On the recommendations of the Release Medical Board, the Applicant was granted disability pension at the rate of 20% for life.

3. In the instant case, despite time having been granted on several occasions no counter affidavit was filed. However learned counsel for the respondents assisted by SNCO I/C

Legal Cell did not object to grant of relief of rounding off of disability pension from 20% to 50% in the facts and circumstance of the case. Hence, we proceed to decide the O.A dispensing with the necessity of having a counter affidavit in view of conceding of the admitted position by the learned counsel for the respondents.

4. Without making idle parade of learning by citing all the decisions on the point, we would like to refer to the decision of **Hon'ble Supreme Court** in Civil Appeal No. 418 of 2012, **Union of India and others Vs. Ram Avtar**, on 10.12.14 :

*"4. By the present set of appeals the appellant raise the question, whether or not, an individual, has retired on attaining the age of superannuation or completion of his tenure of engagement, if found to suffering from some disability which is attributable or aggravated by the military service, is entitled to grant the benefit of rounding-off of disability pension. The appellant(s) herein would contend that, the basis of Circular No. 1(2)/97/D (Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available on to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.*

5. *we have heard learned counsel for the parties the lis.*

6. *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.*

7. *The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension."*

5. In view of the admission position, the O.A is allowed and the disability which was initially assessed as 20% for life, on being rounded off, is quantified at 50% for life. The applicant shall be entitled to arrears of disability pension from the date of discharge.

### **ORDER**

5. Thus as a result of foregoing discussion, the O.A is allowed. The Applicant is held entitled to disability pension to the extent of 20% for life which is to be rounded off to 50% for life from the date of discharge. The Respondents are also directed to pay arrears of aforesaid disability pension from the date of discharge till the date of actual payment. The Respondents are further directed to give effect to the order within six months from the date of receipt of a certified copy of this order failing which the Petitioner shall be entitled to interest at the rate of 10% per annum.

6. No order as to costs.

**(Air Marshal BBP Sinha)**  
**Member (A)**

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

**Dated: 06 December, 2017**

MH/-

