

Court No. 1
RESERVED

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 85 of 2019

Monday, this the 15th day of February, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Service No. JC-680077-L Ex Nb/Sub Ram Prasad
Son of Late Chouthy
R/o Village - Baans Gaon, Post Office - Gagha,
District – Gorakhpur (UP), Pin – 273411

.... Applicant

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

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Army Staff, Integrated headquarter of the Ministry of Defence (Army), South Block, New Delhi-110011.
3. Officer-in-Charge Records, Sena Sewa Corps Abhilekh (Pashu Parivahan) ASC Records (AT) Paharpur Gaya – 823005.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad – 211014.

..... Respondents

Ld. Counsel for the Respondents : **Shri Anurag Mishra**,
Central Govt Counsel.

ORDER

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-

- “(a) To issue/pass an order or direction of appropriate nature to the respondents to quash/set-aside the impugned order dated 24.09.2018 passed by respondent No. 4.

- (b) To issue/pass an order or direction of appropriate nature to the respondents providing rounding off benefit to the applicant and revising the existing rate of disability pension.
- (c) To issue/pass an order or direction of appropriate nature to the respondents to pay arrears of disability pension with interest.
- (d) To issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.
- (e) Allow this application with exemplary costs."

2. Brief facts of the case are that the applicant was enrolled in the Indian army on 27.08.1971 and was discharged from service on 30.06.1996 (AN) in low medical category and his disability "**PULMONARY TUBERCULOSIS**", was assessed @ 50% from 01.07.1996 to 15.05.1998 and 30% from 16.05.1998 to 19.11.1999 and finally it was assessed to 20% for life by Re-survey medical Board held on 09.06.2001. Accordingly PPO dated 12.11.2001 was issued for grant of disability element from 02.08.2001 for life. Thereafter, applicant filed O.A. No. 64 of 2014 before this Tribunal which was allowed and his disability element was rounded off from 20% to 50% for life vide order dated 03.06.2015. The applicant has now filed another O.A. for further rounding off of disability element from 50% to 75% for life.

3. Learned counsel for the applicant submitted that applicant is still suffering from Tuberculosis and his disability is reckoned at 50%, hence applicant is liable to get his disability pension revised. He further submitted that denying the benefit of rounding off vide

impugned order dated 24.09.2018 is arbitrary and illegal and applicant be given benefit of rounding off according to Govt. of India, Ministry of defence letter enclosed as Annexure No. 8 to O.A.

4. On the other hand, Ld. Counsel for the respondents submitted that disability element of applicant has already been rounded off from 20% to 50% for life vide this Tribunal order dated 03.06.2015, passed in O.A. No. 64 of 2014, filed by the applicant. The operative portion of order dated 03.06.2015 reads as under :-

“10. In view of the aforesaid discussion, we are of the view that the applicant has made out a case for grant of the part of relief as claimed by him. The Original Application No. 64 of 2014 Ram Prasad versus Union of India and others is allowed, partly. The applicant will be entitled for rounding off of disability pension to 50% from 07.03.2010 i.e. three years prior to the filing of the instant original Application along with interest @ 9% per annum. The payments be made within four months of receipt of copy of this judgment by the respondents. The parties shall bear their own costs.”

5. We have heard learned counsel for both sides and perused the material placed on record.

6. On careful perusal of the records, it has emerged that applicant's disability element has already been rounded off from 20% to 50% for life and accordingly, applicant is in receipt of 50% disability element from 07.03.2010. At no stage, medical board proceedings can be challenged for its authenticity. Hence, further rounding off of already rounded off disability element is totally baseless and misconceived.

7. In view of the above, the O.A. is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

8. No order as to costs.

(Vice Admiral Abhay Raghunath Karve) **(Justice Umesh Chandra Srivastava)**
Member (A) Member (J)

Dated: February, 2021

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