

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 405 of 2018**Thursday, this the 28<sup>th</sup> day of January, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**Ram Pravesh, No 6907158M, Hav/Dvr  
S/o Late Ram Parsan  
R/o Vill & PO – Tengarhi,  
Distt – Ballia (UP) Pin-277201

..... Applicant

Ld. Counsel for the Applicant: **Shri Parijaat Belaura**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Chief of Army Staff, Integrated HQ, MoD, Army South Block, New Delhi-11.
3. Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad (UP).
4. Officer-in-charge Army Ordinance Corps Records, post Box No-3, Trimulgherry Post, Secunderabad-500015.

..... Respondents

Ld. Counsel for the Respondents : **Shri Adesh Kumar Gupta**,  
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 for the following reliefs:-

“(I) Issue/pass an order or direction directing the respondents to round off the disability of the applicant to 50% from 20%.

(II) Issue/pass an order or direction to Respondents to pay arrears of pension with interest thereon so accrued from the date of retirement i.e. 31/07/1998 (AN).

(III) Any other relief as considered proper by the Hon'ble Tribunal be awarded in favour of the applicant.

(IV) Cost of appeal be awarded to the applicant.”

2. Briefly stated facts of the case are that the applicant was enrolled in Indian Army on 23.07.1974 and was discharged from service with effect from 31.07.1998 (AN) in low medical category. The Release Medical Board identified his disability “**TRAUMATIC ILEAL PERFORATION (OPTD)**” and assessed Aggravated my military service at 20% for life. Accordingly, P.P.O. dated 10.11.2003 was issued by the Principal Controller of Defence Account (Pension), Allahabad. Presently the applicant is in receipt of 20% disability pension for life and has moved this Original Application for grant of benefit of rounding of disability pension w.e.f. 31.03.1998 from 20% to 50%.

3. Learned counsel for the applicant argued that since the applicant is already in receipt of 20% disability element for life, therefore, in view of the Hon'ble Apex Court judgment in the case of *Union of India and Ors vs Ram Avtar & ors* (Civil appeal No. 418 of 2012 decided on 10th December 2014), and Govt. of India, Ministry of Defence letter dated 31.01.2001, the applicant is also entitled to benefit of rounding off of disability element @ 50% for life.

4. On the other hand, though Ld. Counsel for the respondents conceded receipt of 20% disability pension by the applicant but

contended that the applicant is not entitled to the benefit of rounding off of disability pension on the ground that the applicant's services were not cut short as he was not invalidated out on account of his disability. In the instant case the applicant was discharged from service on completion of his terms of engagement, therefore, the Ld. Counsel submitted that he is not eligible for the benefit of rounding off.

5. The law on the point of rounding off of disability pension is no more RES INTEGRA in view of the Hon'ble Supreme Court judgment in the case of **Union of India and Ors vs Ram Avtar & ors** (Civil appeal No 418 of 2012 decided on 10th December 2014) wherein the Hon'ble Apex Court has nodded in disapproval of the policy of the Government of India in granting the benefit of rounding off of disability pension only to the personnel who have been invalidated out of service and denying the same to the personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision is excerpted below:-

*“4. By the present set of appeals, the appellant (s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding off of disability pension. The appellant(s) herein would contend that, on 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 only 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 to 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.*

8. *This Court grants six weeks' time from today to the appellant(s) to comply with the orders and directions passed by us."*

6. In the instant case, there is no dispute that applicant is in receipt of 20% disability element for life as this fact has been accepted by the respondents. In view of the settled law on this matter, we are of the considered opinion that the applicant is entitled to the benefit of rounding off to 50% for life from the date of discharge.

7. In view of the above, the Original Application is allowed. The applicant is entitled to the benefit of rounding off of disability element from 20% for life to 50% for life from the date of discharge. However, as per PCDA (P), Allahabad Circular No. 596 dated 09.02.2018, arrears of benefit of rounding off are applicable from 01.01.2016 only. Hence, arrears of benefit of rounding off will be paid from 01.01.2016 only. The respondents are directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 9% per annum till actual payment.

8. No order as to costs.

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

Dated: January, 2021

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