

Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 625 of 2022

Thursday, this the 12th day of January, 2023

**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”**

No. 14261580-W, Rank – Ex. Sep. Balaji Tripathi, R/o Baldev Vihar Colony, Near Swami Vivekanand School, Telibagh, Lucknow, UP-226029.

..... **Applicant**

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

Versus

1. Union of India, through Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff, Integrated Head Quarters, Ministry of Defence, South Block, New Delhi.
3. Officer-in-Charge, The Records Signals, PIN-908770, C/o 56 APO.
4. The Principal Controller of Defence Account (Pension), Draupadi Ghat, Allahabad (UP).

.....**Respondents**

Ld. Counsel for the Respondents. : **Shri Ashish Kumar Singh**, Advocate
Central Govt. Counsel

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

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

- (i) *To grant disability pension @20% w.e.f. date of discharge of applicant i.e. 31.08.2002.*
- (ii) *To round off the disability pension from 20% to 50% as per GOI, MoD letter dated 31.01.2001, w.e.f. 01.09.2001.*
- (iii) *To pay arrears of difference of disability pension along with 12% interest from the date of his release i.e. 01.09.1995 till it is actually paid.*
- (iv) *Any other suitable relief this Hon'ble Court deems fit and proper may also be granted.*

2. Briefly stated, applicant was enrolled in the Signals Corps of Indian Army on 05.01.1985 and discharged on 31.08.2022 (AN) in Low Medical Category under Rule 13 (3) Item III (v) of the Army Rules, 1954. At the time of discharge from service, the Release Medical Board (RMB) held at 166 Military on 07.06.2002 assessed his disability '**CERVICAL SPONDYLOSIS**' @20% for two years and opined the disability to be aggravated by service. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded that Principal Controller of Defence Accounts (Pension), Prayagraj has no authority to overrule the opinion of the RMB by reducing the degree of disablement from 20% to 11-14%. He pleaded that various Benches of Armed Forces Tribunal have granted disability element of disability pension in similar cases, as such the applicant be granted disability pension and its rounding off to 50%.

4. On the other hand, Ld. Counsel for the respondents contended that initially the Pension Sanctioning Authority had reduced the degree of disability from 20% to 11-14% for life. However, later on Principal Controller of Defence Accounts (Pension), Prayagraj had notified disability element @11-14% for life with effect from 01.09.2002 vide PPO dated 15.04.2004 and the same was forwarded to the State Bank of India, Gorakhpur (UP) under intimation to the applicant vide letter dated 08.07.2004. Signals Records has also approached the Chief Manager, State Bank of India (CPPC), Prayagraj to release payment of disability element vide letter dated 30.08.2022. Signals Records has processed his case for issue of a formal 7th CPC e-PPO notifying the disability element through SPARSH to concerned authorities based on which CPPC should revise the disability element rounding off @50% without raising further observation and credit the correct amount to the applicant through his Pension Disbursing Agencies..

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents. We have also gone through the Release Medical Board proceedings as well as the records. We find that the respondents have conceded the applicant's claim in the Counter Affidavit filed by them.

6. In view of the above, the **Original Application No. 625 of 2022** deserves to be allowed, hence **allowed**. The applicant is entitled to get disability element @20% for life which would be

rounded off to 50% for life from the next date of his discharge as has been conceded by the respondents in their Counter Affidavit. The respondents are directed to grant disability element to the applicant @20% for life which would stand rounded off to 50% for life from the next date of his discharge. The respondents are further 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 @ 8% per annum till the actual payment.

7. No order as to costs.

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 12 January, 2023

AKD/-