

**Court No.1**  
**Reserved Judgment**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**Original Application No. 154 of 2017**

Monday, this the 19<sup>th</sup> day of February, 2018

**Hon'ble Mr. Justice S.V.S. Rathore, Member (J)**  
**Hon'ble Lt Gen Gyan Bhushan, Member (A)**

No. 14262257-N Ex-Nk Radhe Shyam Verma  
Son of Shri Raghuveer Verma  
Resident of Village – Pakari Dih  
Post – Birpura,  
Tehsil – Rasra  
District – Ballia (U.P.) – 221709

.....Applicant

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

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarters of the Ministry of Defence (Army), South Block, New Delhi – 110011.
3. Officer-in-Charge Records, Signal Records, Post Bag No. 5, Jabalpur (MP) – 482001.
4. Principal Controller Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.) – 211014.

.....Respondents

Ld. Counsel for the : **Ms. Anju Singh,**  
Respondents **Ld. Counsel for Central Govt.**

**ORDER**

**“Hon’ble Lt Gen Gyan Bhushan, Member (A)”**

1. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 whereby the applicant has claimed following reliefs :-

*“(a) Issue/pass an order or direction directing the respondents and summon the rejection order of disability pension claim and quash the same.*

*(b) Issue/pass an order or direction to respondents to grant disability pension from the date of Release Medical Board.*

*(c) Issue/pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.*

*(d) Allow this application with exemplary costs.”*

2. The undisputed facts, as averred by learned counsel for both the parties are that the applicant was enrolled in the Indian Army on 08.02.1985 in medically fit condition and was discharged from service with effect from 01.11.2000 under Army rule 13 (3) III (v) after completion of more than 15½ years of service. The medical board held before discharge considered the disability for “**CARDIAC ARRHYTHAMIA (UPBS)**” as neither attributable to nor aggravated by military service and assessed it as 20% for two years. The case for disability pension was rejected by the PCDA (P) Allahabad vide letter dated 20.02.2001. The applicant preferred a petition dated 08.08.2002 for conduct of Re-survey Medical Board which was rejected. Aggrieved by denial for grant of disability pension, the applicant has filed this Original Application. The delay in filing of

Original Application has been condoned vide order dated 08.05.2017.

3. We have heard Shri V.P. Pandey, learned counsel for the applicant and Ms. Anju Singh, learned counsel for the respondents assisted by Maj Piyush Thakran, OIC Legal Cell and perused the record.

4. Learned counsel for the applicant submitted that since the applicant was enrolled in medically fit condition and discharged in Low Medical Category, his disability should be considered as attributable to and aggravated by military service and he should be granted disability pension. He also submitted that the applicant is entitled to benefit of rounding off as per policy letter dated 31.01.2001. He further submitted that in large number of similar cases, various Benches of the Armed Forces Tribunal have granted disability pension and also given the benefit of rounding off.

5. While filing counter affidavit, the respondents have not disputed that the applicant suffered disability to the extent of 20% for two years, but submitted that the disability due to the disease of **“CARDIA ARRHYTHAMIA (UPBS)”** was considered as neither attributable to nor aggravated by military service, as such, in terms of Para 173 of Pension Regulations, his claim has correctly been rejected. Though initially, learned counsel for the respondents opposed but subsequently he conceded that in view of various judgments of Hon’ble Supreme

Court and Armed Forces Tribunal, the applicant is entitled to grant of disability pension.

6. Since the applicant was enrolled in a medically fit condition and discharged after approximately 15½ years of service in low medical category and respondents have not produced any documents on record to prove that the disability/disease existed at the time of enrolment, the disability has to be considered as attributable to and aggravated by military service in terms of judgment of ***Dharamvir Singh vs. Union of India and others***, reported in (2013)7 SCC 316, ***Sukhvinder Singh vs. Union of India***, reported in (2014) 14 SCC 364, ***Union of India and others vs. Angad Singh Titaria***, reported in (2015) 12 SCC 257 and ***Union of India and others vs. Rajbir Singh***, reported in (2015) 12 SCC 264 and the applicant is considered entitled for grant of disability pension.

7. Since the medical board has assessed the disability as 20% for two years, as such keeping in view the judgment of ***Veer Pal Singh vs Ministry of Defence***, reported in (2013) 8 SCC 83, we feel that the case of the applicant should be recommended for Re-survey Medical Board to reassess further entitlement of disability pension, if any.

8. On the issue of rounding off of disability pension, we are of the opinion that the case is squarely covered by the decision of ***K.J.S. Buttar vs. Union of India and Others***, reported in (2011) 11 SCC 429 and Review Petition (C) No. 2688 of 2013

in Civil appeal No. 5591/2006, **U.O.I. & Anr vs. K.J.S. Buttar** and **Union of India vs. Ram Avtar & Others**, (Civil Appeal No. 418 of 2012 decided on 10 December, 2014.

9. In view of the above the Original Application deserves to be allowed.

10. Accordingly the **O.A. No. 154 of 2017** is **allowed**. The impugned orders passed by the respondents are set aside. The respondents are directed to grant disability pension to the applicant @ 20% for two years, which would stand rounded off to 50% for two years. The respondents are also directed to refer the applicant's case to Re-survey Medical Board for further entitlement of disability pension, if any. 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. In case the respondents fail to give effect to this order within the stipulated time, they will have to pay interest @ 9% on the amount accrued from due date till the date of actual payment.

11. No order as to costs.

**(Lt Gen Gyan Bhushan)**  
**Member (A)**

Dated: February, 2018  
SB

**(Justice S.V.S. Rathore)**  
**Member (J)**