

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 60 of 2018

Wednesday, this the 14th day of March 2018

Hon'ble Mr. Justice SVS Rathore, Member (J)

Hon'ble Lt Gen Gyan Bhushan, Member (A)

No. JC-479518Y Ex Sub Jitendra Singh, son of Late Suraj Bahadur Singh,
resident of House No. 548/V/248, Vikram Nagar, Manak Nagar, Lucknow. (UP)

.....Applicant

Learned Counsel for the Applicant **Shri R. Chandra, Advocate**

Versus

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi - 110011.
2. Chief of the Army Staff, Integrated Headquarters of Ministry of Defence (Army) DHQ, Post Office New Delhi – 110011.
3. Officer-in-Charge, Records, the Rajput Regiment, Fatehgarh (UP)-209601.
4. The Chief Controller Defence Accounts, Draupadi Ghat, Allahabad – 14 (UP)

...Respondents

Learned Counsel for the Respondents : **Sri Rajiv Pandey, Central Govt Counsel**

ORDER

Per Hon'ble Lt Gen Gyan Bhushan, Member (A)

1. This O.A. has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant for granting the benefit of rounding off.
2. Brief facts as borne out from the record are that the applicant was enrolled in the Army on 27.10.1984 and was discharged in low medical category P-2 (P) for disease 'PIVD L4 L5 OF L5' on 31.10.2012 (AN). He was granted disability pension @ 30% for life. The Medical Board opined the disability to be 'aggravated by military service'. The applicant approached the competent authority for rounding off the disability pension from 30% to 50% by preferring appeal dated 31.05.2016. As per pleadings on record, said appeal has yet not been disposed of.
3. Learned counsel for the applicant submitted that the applicant is in receipt of 30% disability pension for life though. As per Government of India, Ministry of Defence, New Delhi letter No.1(2)/97/1/D(Pen-C) dated 31.01.2001, the applicant is entitled for benefit of rounding off of the disability pension from 30% to 50%. Learned counsel for the applicant submitted that in catena of judgments, various Benches of Armed Forces Tribunals have given the benefit of rounding off to the personnel who have retired after completion of their terms of engagement in low medical category and Hon'ble the Supreme Court has nodded in agreement of such relief.
4. We have heard learned counsel for the parties and perused the record.
5. The issue of rounding off of disability pension is no more res integra and has been finally settled by Hon'ble the Supreme Court in the case of ***K.J.S. Buttar vs Union of India and ors***, (2011)11 SCC 429 and Review Petition (C) No. 2688 of 2013 in Civil Appeal No. 5591/2006, ***Union of India & anr vs.***

K.J.S.Butter and Union of India vs. Ram Avtar & ors (Civil Appeal No. 418 of 2012 decided on 10th December, 2014.

6. As to the period of entitlement of the applicant to receive arrears of disability pension, the larger Bench of Armed Forces Tribunal, Principal Bench, New Delhi in O.A. No. 1439 of 2016, ***Ex Sgt Girish Kumar vs. Union of India & Ors*** relying upon the decision of Hon'ble the Supreme Court in the case of ***Davinder Singh vs. Union of India & Ors*** (C.A. No. 9946 of 2016) decided on 20.09.2016 has held that the benefit of broad banding of disability/war injury element of pension will be with effect from 01.01.1996. The relevant portion of the Full Bench decision in the case of ***Ex Sgt Girish Kumar*** (supra) is reproduced as under :-

“55. After having fully discussed the issue involved before us and to set the controversy at rest vis-à-vis arrears of broad banding of the disability/war injury element of disability pension on the ground of delay in filing application(s) by the individual/applicant(s), we conclude grant of arrears of broad banding of disability pension, stands answered in the fact that all applicants will be entitled to broad banding of disability/war injury element of pension with effect from 01.01.1996, irrespective of whether they retired pre-1996 or post-1996 without any restriction of arrears of three years.”

7. Accordingly, O.A. No. 60 of 2018 is **allowed**. The respondents are directed to grant disability pension to the applicant after rounding off @ 50% for life from the date of discharge. The entire exercise shall be completed by the respondents within four months from the date of production of certified copy of this order failing which the applicant shall be entitled to simple interest @ 9% per annum on the amount accrued from due date till the date of actual payment.

No order as to cost.

(Lt Gen Gyan Bhushan)
Member (A)
 Dated : March 2018
 anb

(Justice SVS Rathore)
Member (J)