

**Reserved  
Court No. 1**

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

**ORIGINAL APPLICATION No.608 of 2017**

**Wednesday, this 9th day of May 2018**

**Hon'ble Mr. Justice SVS Rahore, Member (J)**  
**Hon'ble Air Marshal BBP Sinha, Member (A)**

Lt Col Sukhvir Singh (Retd) son of Late Lakhan Singh, resident of E-202, AWHO Colony, Bhukant Vihar, Shaheed Path, Lucknow – 226012.

..... Applicant

By Legal Practitioner : Col A.K. Srivastava (Retd).

Versus

1. The Secretary, Government of India (MoD), South Block, DHQ, P.O. New Delhi 110001
2. The Chief of Army Staff, Integrated HQ of MoD (Army), South Block, DHQ, P.O. New Delhi – 110001
3. The Addl Dte Gen of Personnel Services, Adjutant General's Branch, Integrated HQ of MoD (Army), Sena Bhawan, DHQ, P.O. New Delhi – 110001.
4. Principal CDA, PCDA (P), Allahabad

..... Respondents

By Legal Practitioner : Dr. Shailendra Sharma Atal,  
Sr. Central Government Standing  
Counsel

**ORDER****Per Hon'ble Air Marshal BBP Sinha, Member (A)**

1. The present O.A has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for grant of benefit of rounding off of disability pension.
2. We have heard Col (Retd) A.K. Srivastava, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents and perused the records.
3. Shorn of unnecessary details, the facts of the case are that the applicant was initially enrolled in the Indian Army on 13.03.1982. Subsequently, he was commissioned in the Indian Army as Lieutenant on 12.09.1998. After rendering about 33 years of service, the applicant superannuated from the Rank of Lt Colonel on 30.09.2015. Before being discharged, i.e. on 04.03.2015, the applicant was brought before the Release Medical Board which opined that the applicant was suffering from 20% disability due to disease PIVD L-5, S-1 and further assessed the disability to be aggravated by military service. The Release Medical Board further opined that 30% disability suffered by the applicant on account of Primary Hypertension was neither attributable to nor aggravated by military service. Thus, the applicant was made entitled for grant of disability pension @ 20% for life.

4. The applicant preferred representations dated 23.12.2015, 13.03.2016 and 31.03.2016 which did not find favour with the authorities and were rejected vide order dated 30.03.2017.

5. Despite earlier chances, the respondents have not filed counter affidavit to deny the pleadings on record. The applicant has brought on record of the OA, a corrigendum PPO (Annexure A-15) from which it is discernible that the applicant has been granted disability pension for disease PIVD L-5, S-1 @ 20% for life.

6. Before proceeding further, we may like to make a mention that in the O.A, the applicant has prayed for the relief of granting disability pension for the disease PIVD L-5, S-1 @ 20% for life and @ 30% for Primary Hypertension for life and its rounding off, but at the time of arguments learned counsel for the applicant has restricted his prayer for grant of 20% disability pension for disease PIVD L-5, S-1 and its rounding off to 50%.

7. While defending the action of the respondents, learned counsel for the respondents submitted that the applicant submitted that the Release Medical Board has opined the disease Primary Hypertension to be neither attributable to nor aggravated by military service.

8. The Release Medical Board had held the disability of the applicant @ 20 for life, and as per the PPO filed by the applicant, he is in receipt of 20% disability pension for life

9. In the case of *Union of India and Ors vs. Ram Avtar & ors* (Civil Appeal No 418 of 2012 dated 10th December 2014) the Hon'ble Apex Court nodded in disapproval at the policy of the Government of India in restricting the benefit of rounding off of disability pension only to the personnel who have been invalided out of service on account of being in low medical category. The Hon'ble Apex Court has made it clear that the policy of rounding off is equally applicable to personnel of Armed Forces who are proceeding on retirement or discharged on completion of term of engagement. In view of the ratio of the judgment the applicant is also entitled to the benefit of rounding off of his disability element of pension, hence his disability of 20% for life will stand rounded off to 50% for life.

10. In view of above, the O.A. succeeds and is hereby **allowed**. The impugned order is set aside. The applicant shall be entitled for disability pension at the rate of 50% for life from the date of his discharge with arrears which shall be paid to him within a period of four months from today failing which the applicant shall be further entitled to interest at the rate of 9% per annum from the due date, till date of actual payment.

No order as to costs.

**(Air Marshal BBP Sinha )  
Member (A)**

**(Justice SVS Rathore)  
Member (J)**

Dated: May 9, 2018.  
anb