

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 653 of 2020****Tuesday, this the 28th day of September, 2021****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

No. 155229-A, Ex-Flt Cadet, Charul Verma D/o Sri Narendra Kumar Verma, R/o 144/145 Sec-I, LDA Colony, Kanpur Road, Lucknow (UP)-226012.

.... Applicant

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

Versus

1. Union of India, through Secretary, Ministry of Defence, New Delhi-110011.
2. Air Head Quarters, Directorate of Air Veterans, SMC Building 1st Floor, Subroto Park, New Delhi-110010.
3. Officer-in-charge, Air Force Record Office, Subroto Park, New Delhi-110010.
4. The Joint Controller of Defence Accounts (Air Force), Subroto Park, New Delhi PIN-110010.

... Respondents

Ld. Counsel for the: **Shri Shyam Singh**, Advocate
Respondents. Central Government Standing Counsel.

ORDER (Oral)

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

(a) to set aside order dated 05.12.2018 (Anx-1) passed by OP No.

2.

(b) to round off the disability pension from 30% to 50% as per GOI, MoD letter dated 31.01.2001. w.e.f. 03.07.2014.

(c) to pay arrear of difference of disability pension along with 12% interest from the date of his invalid out i.e. 03.07.2014 till it actually paid.

(d) Any other suitable relief this Hon'ble Court deems fit and proper may also be granted.

2. Brief facts of the case giving rise to this application are that applicant was selected by SSB in the Indian Air Force on 29.06.2013 and she has been invalided out from service on 02.07.2014 after completion of 01 year and 03 days service as Flt. Cadet. Prior to invaliding out from service, applicant was brought before Invaliding Medical Board (IMB) which assessed the applicant to be suffering from '**SPONDYLOLYSIS (BILATERAL SPONDYOLYSIS L-4)**' @ 30% for life aggravated by military service. Applicant is in receipt of 30% Ex Gratia Award @ 3500/- and Disability Pension on Ex Gratia basis @ 30% i.e. Rs. 1890 vide. P.P.O. No. 08/14/A/DIS/0080/2015 dated 26.10.2015. Applicant represented her case for Broad Banding her Disability pension which was rejected vide order dated 15.12.2018. It is in this prospective that this OA has been filed.

3. Learned counsel for the applicant pleaded that applicant is already in receipt of disability pension @ 30% for life and submitted that present disability pension be rounded off to 50% for life in terms of **Union of India vs. Ram Avtar & Others**, Government of india, Ministry of Defence letter dated 31.01.2001 and para 30 of Hon'ble Delhi High Court judgment in the case of **Puneet Gupta Vs Union of India WP (C) 6466/2014**.

4. On the other hand, learned counsel for the respondents contended that rounding off of disability pension is applicable in the case of ex-gratia disability award which is admissible to ex cadets. Ex Cadet are not entitled to disability pension, hence the benefit of broad banding is also not applicable in the cases of Ex Cadets. Further submission of learned counsel for the respondents is that broad banding benefit is admissible in the cases of Armed Forces Personnel and not in the case of ex-cadets. Ex-cadets do not come under the category of Armed Forces Personnel since they are not subject to Air Force/Army/Navy Act, hence she is not entitled to grant of broad banding of disability award. He pleaded the O.A. to be dismissed.

5. Heard the learned counsel for the parties and perused the material placed on record.

6. We take note of the judgment delivered by the Hon'ble Supreme Court in the case of **Union of India vs. Ram Avtar & Others**, (Civil Appeal No. 418 of 2012 decided on 10 December, 2014), Government of india, Ministry of Defence letter dated 31.01.2001 and Hon'ble Delhi High Court's judgment para 30 in the case of **Puneet Gupta Vs Union of**

India WP (C) 6466/2014 in which rounding off disability pension has been granted to cadets on being invalided out of from service. Hence we would like to point that Officer Cadets on being invalided out are not granted disability pension but are granted ex-gratia allowances comprising two elements –monthly ex-gratia and ex-gratia disability award (akin to service element and disability element of disability pension). Since ex-gratia is a fixed monthly amount, the ex cadet is held entitled only to the ex-gratia award @ 30% for life, which are stands rounded off to 50% for life in accordance to with WP Puneet Gupta Vs UOI (Supra). Therefore, in view of the aforesaid judgment, the applicant is held entitled to rounding off of her disability award @ 50% from date of invalidment in accordance with rules on the subject.

7. As a result of foregoing, the O.A. is **allowed**. The impugned order dated 05.12.2018 is set aside. Since the applicant has filed this O.A. on 26.11.2020, she is entitled to get the aforesaid rounding off benefits (i.e. 30% for life rounded off to 50% for life in respect of ex-gratia award) from three years preceding the date of filing of the present O.A.

8. In view of the above, respondents are directed to grant rounding off of disability award to applicant w.e.f 26.11.2017 along with arrears within three months from today. Default will invite interest @ 8% p.a.

9. No order as to costs.

10. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 28th September, 2021
Rspal/-