

**RESERVED**  
**Court No.1**

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

**Original Application No. 702 of 2017**

Wednesday, this the 12<sup>th</sup> day of September, 2018

**Hon'ble Mr. Justice S.V.S. Rathore, Member (J)**  
**Hon'ble Air Marshal BBP Sinha, Member (A)**

IC-48668-F Lt Col Abbas Ali Khan (Retd) S/O Late Shahabul Khan, R/O S-611 Sanskriti Enclave, Eldeco Raibareilly Road, Lucknow.

..... Applicant

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

Versus

1. Union of India through the Secretary, Ministry of Defence, 101 South Block, New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarter Ministry of Defence, South Block, New Delhi-110011.
3. Military Secretary Branch/ (MS-7A), Integrated HQ of MoD (Army).
4. The Principal Controller Defence Account (P), Draupadi Ghat, Allahabad-211014.

..... Respondents

Ld. Counsel for the Respondents : **Dr. Shailendra Sharma Atal**  
Central Govt Counsel.

**ORDER****“Per Hon’ble Mr. Justice S.V.S. Rathore, Member (J)”**

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) *Issue/pass an order or direction of appropriate nature to the respondents to give the benefits of “rounding off” of the disability pensionary benefits from 30% to 50% as provided vide Government of India, Ministry of Defence letter No. 1 (2)/97/D (Pen-C) dated 31.01.2001 and circular No 429 dated 04.03.2010 supported by the position held by the Supreme Court. The applicant may be granted benefit of rounding off the disability pension w.e.f. 01.06.2013.*
- (b) *Issue/pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.*
- (c) *Allow this application with exemplary cost.*

2. Brief facts of the case are that the applicant was commissioned in the Indian Army on 10.01.1989 and retired from service after attaining the age of superannuation on 31.05.2013 (AN) in low medical category. Release Medical Board (RMB) held at the time of discharge assessed the disability (i) Primary Hypertension as neither attributable to nor aggravated (NANA) by military service and (ii) B/L SNHL @ 30% for life and considered as aggravated by military service. It transpires from the Original PPO No. M/03185/2013 that initially the officer was not in receipt of any disability pension. The applicant approached Integrated Headquarters of MoD (Army) PS4 (Imp-II) and preferred first appeal dated 22.10.2014. The appellate authority rejected the disability with regard to Primary Hypertension on the ground of NANA but conceded B/L SNHL as aggravated by military service with the disablement of 30% for life vide letter dated 11.06.2015 and corrigendum PPO No M/CORR/6624/2015 was issued to the applicant.

3. Learned counsel for the respondents has conceded the receipt of 30% disability pension by the applicant but has declined to file counter affidavit. Hence we proceed to decide the case on the basis of records.

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

5. The law on the point of grant of disability pension and its rounding off is no more res integra. In the case of ***Union of India and Ors vs Ram Avtar & ors*** (Civil appeal No 418 of 2012 dated 10<sup>th</sup> December 2014) Hon'ble Apex Court nodded in disapproval of policy of the Government of India in not granting the benefit of rounding off of disability pension to the personnel who have been invalidated out of service on account of being in low medical category or who has retired on attaining the age of superannuation or completion of his tenure of engagement, if found to be suffering from some disability. The relevant portion of the decision being relevant is excerpted below:-

*“4. By the present set of appeals, the appellant (s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No 1(2)/97/D (Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.*

*5. We have heard Learned Counsel for the parties to the lis.*

*6. We do not see any error in the impugned judgment (s) and order(s) and therefore, all the appeals which pertain to the concept of rounding off of the disability pension are dismissed, with no order as to costs.*

*7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.*

8. *This Court grants six weeks' time from today to the appellant(s) to comply with the orders and directions passed by us."*

6. In the instant case, there is no dispute that the applicant is in receipt of 30% disability pension for life. This fact is also established from the Corrigendum PPO (***Annexure No. A-5 to the O.A.***) filed on record. The applicant is entitled to rounding off of disability element from 30% for life to 50% for life from the date of discharge i.e. 01.06.2013.

7. In view of the above, the Original Application deserves to be allowed, hence **allowed**. The disability pension assessed as 30% for life shall stand rounded off to 50% for life from 01.06.2013 i.e. date of discharge. The respondents are directed to grant rounding off of disability pension to the applicant alongwith arrears 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.

No order as to costs.

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

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

Dated : 12 September, 2018  
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