

**Court No. 1****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION NO 43 of 2017**Monday, this the 15<sup>th</sup> day of January 2018**Hon'ble Mr. Justice D.P. Singh, Member (J)****Hon'ble Air Marshal BBP Sinha, Member (A)**

Ser No.14364122-A Rank Ex Hav Dinesh Chand Tiwari son of Late Rokha Tiwari resident of Village Sonari, P.O. Machhati, district Ghazipur – 233001 (UP)

....Applicant

Ld. Counsel for the: **Shri V.A Singh**, Advocate  
Applicant

Verses

1. Union of India, through its Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Army AD Records, Gopalpur Military Station, Golabandha, Brahmapur, Odisha - 761052
3. The Officer-in-Charge PCDA (P) Draupadi Ghat, Allahabad.
4. The Army AD Directorate Army HQDH PO New Delhi - 110011

.....Respondents

Ld. Counsel for the : **Shri A.N. Tripathi**, Central  
Respondents. Govt Counsel assisted by  
Maj Salen Xaxa, OIC Legal Cell.

**ORDER (Oral)**

1. The present application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for rounding off of disability pension from 30% to 50%.

2. Heard Shri V.A. Singh, Ld. Counsel for the applicant and Shri A.N. Tripathi, Ld. Counsel for the respondents, assisted by Maj Salen Xaxa, OIC Legal Cell and perused the records.

3. The applicant was recruited in the Indian Army on 27.03.1982 and was invalided out from service in low medical category P3 (T-24) on account of suffering from "PRIMARY HYPERTENSION". He was discharged on 31.03.2006 from service with 30% disability aggravated by military service. The respondents have admitted that the applicant is in receipt of 30% disability pension.

5. Ld. Counsel for the applicant submitted that the applicant in receipt of 30% disability for life which is required to be rounded off to 50% for life. The case is squarely covered by judgment of 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.

6. Here we would like to quote operative portion of the judgment of the Hon'ble Supreme Court in **Ram Avtar's** case (supra) on rounding off of disability pension as under:

*"4. By the present set of appeals the appellant raise the question, whether or not, an individual, has retired on attaining the age of superannuation or completion of his tenure of engagement, if found to suffering from some disability which is attributable or aggravated by the military service, is entitled to grant the benefit of rounding-off of disability pension. The appellant(s) herein would contend that, 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 on to an Armed Forces Personnel who is invalided out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.*

*5. we have heard learned counsel for the parties at length.*

*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."*

In the light of the aforesaid judgment, the applicant's disability pension is rounded off to 50% for life from three preceding years from the date of filing of the present petition i.e. with effect from 21.09.2014.

7. We dispose of the present O.A. in terms of the above judgment with a direction to the respondents to release the disability pension @ 50% from three preceding years from the date of filing of the instant O.A. i.e. 21.09.2014 along with arrears within a period of four months from the date of receipt of a certified copy of this order. In case this order is not complied with within the stipulated period, the amount so accrued shall carry interest @ 10% per annum from the due date, till actual payment thereof.

O.A. is **allowed** accordingly.

No order as to costs.

(Air Marshal BBP Sinha)  
Member (A)  
Dated:15 January, 2018

(Justice Devi Prasad Singh)  
Member (J)

anb