

ORDER**“Per Hon’ble Air Marshal BBP Sinha, Member (A)”**

1. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant for grant of disability pension. The only relief prayed in this petition is for grant of benefit of rounding off of the disability pension with effect from 01.04.2012 and provide the same alongwith arrears and interest. The relief sought being relevant is quoted below.

“(a) Issue/pass an order directing the respondents to consider case of the applicant for extending the benefit of rounding off of the disability pension with effect from 01.04.2012 and provide the same alongwith arrears and interest.”

2. The facts draped in brevity are that the applicant was enrolled in the Indian Army on 22.03.1988 in medically fit condition and was discharged from service with effect from 31.03.2012 on completion of more than 24 years of service. The medical board held before discharge placed the applicant in Shape-2 E (Permanent) and assessed his disability as 30% for life. It is stated that thereafter, the applicant was granted disability element at 30% but was not bestowed the benefit of rounding off. The only prayer made in this petition is for grant of relief of rounding off.

3. We have heard Ld. Counsel for the parties and perused the material facts on record.

4. The learned counsel for the Applicant submits that he was not supplied the documents of the examination conducted by Release Medical Board and thus he was not aware of the percentage of disability.

5. In the instant case, no counter affidavit has been filed as the facts stated in the petition are admitted by the respondents. The respondents have not disputed that the applicant suffered disability to the extent of 30% for life. Additionally, copy of the PPO annexed by Applicant conforms that he is in receipt of 30% of disability pension.

6. On the issue of rounding off of disability pension, we are of the opinion that the case is squarely covered by the decision of ***K.J.S. Buttar vs. Union of India and Others***, reported in (2011) 11 SCC 429 and Review Petition (C) No. 2688 of 2013 in Civil appeal No. 5591/2006, ***U.O.I. & Anr vs. K.J.S. Buttar*** and ***Union of India vs. Ram Avtar & Others***, (Civil Appeal No. 418 of 2012 decided on 10 December, 2014).

7. 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 Apex 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."

8. In view of the above the Original Application deserves to be allowed.

9. Accordingly the O.A. is **allowed**. In the facts and circumstances of the case, the disability of the applicant shall stand rounded off from 30% to 50% for life from the date of discharge. The respondents are further directed to give effect to this order 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.

10. No order as to cost.

(Air Marshal BBP Sinha) (Justice S.V.S. Rathore)
Member (A) Member (J)

Dated: April, 11, 2018
MH/-