

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**Original Application No 171 of 2022**Thursday, this the 7th day of April, 2022**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)IC-28934N Lt Col Param Pal Singh Dhillon (Retd)
S/o Shri (Late) Sardar Abhinashi Singh
R/o House No. 279/54, 68 Pandriba Road, Chuhar Singh Colony,
Post : Rajendra Nagar, Lucknow, Dist : Lucknow (UP) – 226004
..... ApplicantLd. Counsel for the Applicant: **Shri Shailendra Kumar Singh**, Advocate

Versus

1. The Union of India, Rep by the Secretary, Govt. of India, Ministry of Defence, South Block, New Delhi-110011.
 2. The Chief of the Army Staff, Integrated Headquarters of MoD (Army), Post – DHQ, New Delhi – 110011.
 3. ADGPS (MP 5&6), Adjutant General's Branch, Army Headquarters, West Block, RK Puram, New Delhi – 110066.
 4. PCDA (P) (Army), Draupadhi Ghat, Allahabad (UP) – 212114.
- Respondents

Ld. Counsel for the Respondents : **Shri Amit Jaiswal**,
Central Govt 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 for the following reliefs:-

“A. To issue/pass an order or directions of appropriate nature to the respondents to grant the benefit of rounding off of the disability element of disability pension from 30% to 50% wef the date of retirement (01.06.2002) to pay the arrears along with suitable rate of interest as deem fit by this Hon'ble Tribunal.

B. Any other relief as considered proper by the Hon'ble Tribunal be awarded in favour of the applicant.

C. Cost of application be imposed on the respondents as the benefits of rounding off should have been extended to the applicant by themselves as Ids of the applicant were considered aggravated by military service and there should not have been any reasons for applicant to approach to this Hon'ble Tribunal for relief claimed for especially when similar issue have been decided by the Larger Bench of Armed Forces Tribunal.”

2. Briefly stated facts of the case are that the applicant was commissioned in the Indian Army on 12.01.1969 and was retired from service with effect from 31.05.2002 (AN) after rendering 33 years, 04 months and 20 days of service in low medical category. The Release Medical Board identified his disabilities “**CERVICAL SPONDYLOSIS**”, assessed @ 20% for life and “**PROLAPSED INTERVERTIBRAL DISC (PIVD)**”, assessed @ 20% for life (composite @ 30% for life) and both the disabilities were considered as aggravated by military service. The applicant is in receipt of service pension vide PPO dated 07.03.2002. Another P.P.O. dated 22.06.2004 has also been issued by PCDA (P), Allahabad granting 30% disability for life. Presently the applicant is in receipt of 30% disability pension for life and has moved this Original Application for grant of benefit of rounding of disability pension w.e.f. 01.06.2002 from 30% to 50%.

3. Learned counsel for the applicant argued that since the applicant is already in receipt of 30% disability element for life,

therefore, in view of the Hon'ble Apex Court judgment in the case of *Union of India and Ors vs Ram Avtar & ors* (Civil appeal No. 418 of 2012 decided on 10th December 2014), and Govt. of India, Ministry of Defence letter dated 31.01.2001, the applicant is also entitled to benefit of rounding off of disability element @ 50% for life.

4. On the other hand, though Ld. Counsel for the respondents conceded receipt of 30% disability pension by the applicant and also submitted that applicant is entitled for the benefit of rounding off @ 50% for life as per Govt. orders.

5. In the instant case, there is no dispute that applicant is in receipt of 30% disability element for life and he is entitled for the benefit of rounding off as this fact has also been conceded by the respondents. Hence, the applicant is entitled to the benefit of rounding off from 30% to 50% for life from the next date of retirement from service.

6. In view of above, the Original Application is allowed. The applicant is entitled to the benefit of rounding off of disability element from 30% for life to 50% for life from the next date of retirement from service. However, as per Govt. of India, Ministry of Defence letter dated 23.01.2018 and PCDA (P), Allahabad Circular No. 596 dated 09.02.2018, arrears of benefit of rounding off are applicable from 01.01.2016 only. Hence, arrears of benefit of rounding off will be paid from 01.01.2016 only. The respondents are 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. Default will invite interest @ 8% per annum till actual payment.

7. No order as to costs.
8. Pending Misc. Application(s), if any, shall stand disposed of.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: April, 2022
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