

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**Original Application No 52 of 2022**

Wednesday, this the 6th day of April, 2022

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Ayodhya Prasad Dubey (No. 3988033K Ex Nk/Cook)
 S/o Dukh Haran Dubey
 R/o Village – Shahpur, Post Office – Huzoorpur,
 District – Bahraich (UP)

..... Applicant

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

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi.
2. Officer-in-Charge Records, The Dogra Regiment, PIN 900235, C/o 56 APO.
3. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Prayagraj (UP).
4. Branch Manager, Central Bank of India, Huzoorpur Branch, Bahraich (UP).

..... Respondents

Ld. Counsel for the Respondents : **Mrs. Kavita Mishra**,
 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) Issue/pass an order directing the respondents to consider case of the applicant for grant of the benefit of rounding off of disability pension with effect from the date of grant of disability pension, i.e. 01.11.2006 and provide the same along with arrears and interest.

- (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 Original Application with cost."

2. Briefly stated facts of the case are that the applicant was enrolled in Indian Army on 08.10.1986 and was discharged from service with effect from 31.10.2006 (AN) on completion of tenure of his service under Rule 13 (3) III (i) of Army Rules, 1954 in low medical category. The Release Medical Board identified his disability "**CHRONIC SUPPURATIVE OTITIS MEDIA (CSOM)**" and assessed as aggravated by military service at 20% for life. Accordingly, P.P.O. dated 22.05.2007 was issued by the Principal Controller of Defence Account (Pension), Allahabad. Presently the applicant is in receipt of 20% disability pension for life and has moved this Original Application for grant of benefit of rounding of disability pension w.e.f. 01.11.2006 from 20% to 50%.

3. Learned counsel for the applicant argued that since the applicant is already in receipt of 20% 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 20% disability pension by the applicant and submitted that applicant is entitled for the benefit of rounding off @

50% w.e.f. 01.01.2016 under the provisions of Govt. of India, Ministry of Defence letter dated 23.01.2018 and PCDA (P) Allahabad Circular No. 596 dated 09.02.2018 which is evident from Para 9 to 12 of their counter affidavit.

5. In the instant case, there is no dispute that applicant is in receipt of 20% 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 20% to 50% for life from the next date of discharge.

6. In view of above, the Original Application is allowed. The applicant is entitled to the benefit of rounding off of disability element from 20% for life to 50% for life from the next date of discharge. However, as per 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 @ 9% 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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