

**Court No.1**

**Reserved Judgment**

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

**Original Application No. 9 of 2015**

Thursday this the 26<sup>th</sup> day of November, 2015

**Hon'ble Mr. Justice V.K. DIXIT, Member (J)**  
**Hon'ble Lt Gen Gyan Bhushan, Member (A)**

Lt Col VM Wadhawan(Retd) aged about 67 years son of  
Shri Nand Lal Wadhawan resident of A-1/18, Defence  
Enclave, Sardhana Road, Meerut Cantt-250001, Uttar  
Pradesh

..... Applicant

By Legal Practitioner Shri Rakesh Johri, Advocate

Versus

1. Union of India through The Secretary,  
Ministry of Defence, New Delhi-110001
2. Chief of the Army Staff, Integrated Headquarters of  
the Ministry of Defence, South Block, New Delhi –  
110001.
3. Adjutant General, Integrated Headquarters of the  
Ministry of Defence, South Block, New Delhi –  
110001.
4. Principal Controller General Defence Accounts  
Pensions, Draupadi Ghat, Allahabad-211014

..... Respondents

By Legal Practitioner Shri Mukund Tewari, Senior  
Standing Counsel for the Central Government

**ORDER**

**“Hon’ble Lt Gen Gyan Bhushan, Member (A)”**

1. The Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, claiming the following reliefs:

- “(a) Issue/pass an order quashing the order dated 13.11.2014 of denial of Disability pension to the applicant. (Annexure A-1)*
- (b) Issue/pass an order or a direction to the respondents to strike clause 3 of letter dated 29.09.2009 (Annexure-A-4)*
- (c) Issue/pass an order to respondents to grant disability pension to the Applicant from 22.03.1998*
- (d) Issue/pass any other order or direction as this Honourable Tribunal may deem fit in the circumstances of the case.*
- (e) Allow this application with cost.”*

2. The factual matrix of the case is that the applicant was granted Short Service Commission on 06.09.1970 and permanent commission on 06.09.1975. He prematurely retired from service on 21.03.1998. Prior to his retirement, the medical board viewed his disability for Low Back Ache as attributable to service and assessed the disability as 30% for two years. The initial claim for grant of disability pension was not processed as the officer had retired prematurely prior to 01.01.2006. Post issuance of letter dated 29.09.2009, the officer approached the respondents

for grant of disability pension but the same was denied to him on the ground that he had retired prematurely. Aggrieved, he has filed this Original Application.

3. Learned counsel for the applicant submitted that the applicant proceeded on premature retirement on 21.03.1998 after rendering 27 years and 06 months of service. As per recommendations of the 6<sup>th</sup> Pay Commission, disability pension was granted to personnel who had retired from service prematurely provided they met other conditions for grant of disability pension and no cut off date was recommended. However, on 29.09.2009, a letter was issued by the respondents for implementation of Government decision of recommendation of 6<sup>th</sup> Pay Commission about revision of provisions regulating Pensionary Awards relating to disability pension/war injury pension etc for the Armed Forces officers and personnel Below Officer (PBOR) on voluntary retirement/discharge on own request on or after 01.01.2006. This resulted in filing of several court cases by persons who had proceeded on premature retirement prior to 01.01.2006 since they were deprived of this benefit. Respondents issued a letter on 03.08.2010 clarifying that as and when Pre 2006 Personnel Below Officers Rank files a court case to claim

disability pension which was denied to him merely because he had proceeded on premature retirement, such cases will be immediately processed for Government sanction through respective line directorates and shall not be contested. The applicant was in regular correspondence with the respondents regarding grant of his disability pension. The applicant once again reminded Additional Directorate General of Personnel Services vide his letter dated 17.04.2014. Additional Directorate General of Personnel Services vide their letter dated 13.11.2014 (Annexure A-1 of Original Application) replied that the applicant was not eligible for disability pension. Learned counsel for the applicant further submitted that Armed Forces Tribunal in many similar cases, has already provided such relief, as mentioned below :-

Ser No	Case Particulars	Bench	Date & Decision	Brief of the case
1	OA 336 of 2011 Maj(Retd) Rajesh Kumar Bharadwaj	Principal	07.05.2012 Allowed	Clause 3 of Letter dated 29.09.2009 was struck down
2	OA 2952 of 2012 Col(Retd) SPS Bedi	Chandi mandir	07.05.2013 Allowed	Case at serial 1 above relied upon. Ajai Wahi's case discussed at Page 3 of the judgment
3	OA 1019 of 2013 Wg Cdr GBS Kang	Chandi mandir	28.05.2013 Allowed	Clause 3 of letter dated 29.09.2009 was struck down
4	OA 463 of 2013 Brig(Retd) AK Chatterjee	Principal	06.08.2014 Allowed	Case at serial 1 above relied upon.

As such, the applicant be granted disability pension.

4. Per contra, learned counsel for the respondents submitted that the eligibility conditions for entitlement to disability pension are given in Regulation 48 of Pension Regulations for the Army, 1961 Part I (hereinafter referred to as PRA) which stipulates that unless otherwise specifically provided disability pension consisting of service element and disability element may be granted to an officer who is invalided out of service on account of a disability which is either attributable to or aggravated by military service in non-battle casualty cases and the disability is assessed at 20% or more. A low medical category officer who retired on superannuation or on completion of tenure can also be granted disability pension under the provision of Regulation 53 of PRA, if he fulfills the twin eligibility conditions as stated except that the percentage of disability should be 20% or more. However, as per Regulation 50 of Pension Regulation for the Army 1961, Part-I an officer proceeding on voluntary / premature retirement is not eligible for disability pension, even if he otherwise fulfills the twin eligibility conditions for the same as mentioned above. As per recommendations

of the Sixth Central Pay Commission, Government has issued a policy vide Govt. of India, MOD letter No. 16(5)/2008/D (Pens/Policy) dated 29.09.2009 wherein it has been provided that Armed Forces personnel who are retained in service despite disability, which is accepted as attributable to or aggravated by military service and have forgone lump-sum compensation in lieu of that disability, may be given disability element / war injury element at the time of their retirement / discharge on or after 01.01.2006 whether voluntary or otherwise in addition to Retiring / Service pension or Retiring / Service Gratuity.

5. As per policy, Army personnel who have become non effective, prior to 01.01.2006 on account of premature retirement, are not eligible for grant of disability pension as such the claim of the applicant had been rejected.

6. We have heard learned counsels for the parties and perused the record.

7. Learned counsel for applicant has drawn our attention to the **AFT Principal Bench judgment dated 07.02.2012 in O.A. No. 336 of 2011 Maj (Retd) Rajesh Kumar Bharadwaj Vs Union of India and others**. He has further submitted that there can be no such distinction between the persons, who have sought voluntary retirement prior to

01.01.2006 or subsequently to it. The services rendered by these personnel are to the nation and to make an artificial distinction on the basis of cut-off date is a serious violation of Article 14 of the Constitution of India, as the persons similarly situated have been treated differently. Relevant portions of the above quoted Principal Bench judgment are reproduced below :

*“A similar question came up before us in the case of **“Lt Col P.K. Kapur (Retd) Versus Union of India bearing O.A. Nos. 139 of 2009 decided on 30.06.2010”** and after reviewing all cases on the subject and considering the law of precedent held that the latest judgment in point of time has to be accepted in the event of conflict of judgments between the two coordinating bench, decision given in the case of **“Union of India & Anr. Versus S.P.S. Vains & Ors. (Supra)”** hold field till it is reviewed. In the case of **Union of India & Anr. Versus S.P.S. Vains & Ors. (Supra)** their Lordships have held that this kind of artificial distinction within the similarly situated persons by putting a cut-off date cannot be said to be rational and reasonable. Following that judgment, we have struck down the notification dated 04.05.2009 to the extent of pre & post distinction of 01.01.2006 in the case of **“Lt Col P.K. Kapur (Retd) Versus Union of India (Supra)”**.”*

*After that in a recent judgment delivered Hon’ble Supreme Court in the case of **“K.J.S. Buttar Versus Union of India and Anr. (Supra)”** their Lordships have further observed that distinction based with regard to Article 14- Disability Pension- Applicant, an ex-captain*

*in Indian Army- Commissioned on 12.01.1969- Suffered serious permanent injuries during service- Invalidated out of service- Injury held attributable to military service and degree of disability assessed at 50%- Released from service in Low Medical Category on 10.04.1997- Granted disability pension w.e.f. 26.07.1979- Prayer for disability to be treated at 75% instead of 50% as per Ministry of Defence letter dated 31.01.2001- Respondent contended that the disability cannot be enhanced to 75% as the relevant provision being para 7.2 of Government of India, Ministry of Defence, letter dated 31.01.2001 is applicable only to those officers who were invalidated out of service after 01.01.1996- Appellant invalidated much before 01.01.1996. Held, such restriction of the benefit is violative of Article 14 and hence illegal. Deoki Nandan Aggarwal's case relied [JT 1991 (3) SC 608]. In case of liberalization of an existing scheme, all are to be treated equally as was the case in hand. But if it is Introduction of a new retiral benefit, its benefit will not be available to all. Letter of the Ministry of Defence dated 31.01.2001 is only liberalization of an existing scheme. **State v. Justice S.S. Dewan** [JT 1997 (5) SC 26] held that the restriction of the benefit to only officers who were invalidated out of service after 01.01.1996 is violative of Article 14 of the Constitution and is hence illegal. We are fortified by the view as taken by the decision of this Court in **Union of India & Anr. V. Deoki Nandan Aggarwal** [JT 1991 (3) SC 608] (Para 11).*

*Now coming to the facts of the present case, notification dated 29.09.2009 has been issued for giving benefit to the persons who have sought voluntary retirement as earlier it was not possible to be given because of the Regulation 50. Regulation 50 contemplates that no person shall be entitled to disability*



*pension if he sought voluntary retirement. But this was watered down by issuing notification dated 29.09.2009 which reads as under;*

*“No. 16(5)/2008/D(Pen/Policy)  
Government of India  
Ministry of Defence  
Deptt. Of Ex-Servicemen Welfare  
New Delhi 29<sup>th</sup> Sept. 2009*

*To*

*The Chief of the Army Staff  
The Chief of the naval Staff  
The Chief of the Air Staff*

*Subject : Implementation of Government decision on the recommendation of the Sixth Central Pay Commission – Revision of provisions regulating Pensionary Awards relating to disability pension/war injury pension etc. for the Armed Forces Officers and Personnel Below Officer Rank (PBOR) on voluntary retirement/discharge on own request on or after 01.01.2006.*

*Sir,*

*The undersigned is directed to refer to Note below Para 8 and Para 11 of the Ministry’s letter No. 1(2)/97/D( )Pen-C) dated 31.01.2011, wherein it has been provided that Armed Forces Personnel who retire voluntarily or seek discharge on request, shall not be eligible for any award on account of disability.*

*2. In pursuance of Government decision on the recommendations of the Sixth Central Pay Commission vide Para 5.1.69 of their Report, President if pleased to decide that Armed Forces personnel who are retained in service despite disability, which is accepted as attributable to or aggravated by Military Service and have foregone lump-sum compensation in lieu of that disability, may be given disability element/war injury element at the time of their retirement/discharge whether voluntary or otherwise in addition to Retiring/Service Pension or Retiring/Service Gratuity.*

3. *The provisions of this letter shall apply to the Armed Forces personnel who are retired/discharged from service on or after 01.01.2006.*
4. *Pension Regulations for the three Services will be amended in due course.*
5. *This issue with the concurrence of Ministry of Defence (fin) vide their U.O. No. 3545(fin/Pen) dated 29.09.2009.*
6. *Hindi version will follow.*

*Yours faithfully,  
(Harbans Singh)  
Director (Pen/Policy)*

*Copy to :-*

*“As per standard list”.*

*As per this notification, the benefit has been extended to the Armed Forces personnel as mentioned in paragraph no. 2 of this notification but in paragraph no. 3, they have said that this will be applicable from 01.01.2006 i.e. the persons who have sought voluntary retirement on or after 01.01.2006 will be benefited and rest will not be benefited. Petitioner has retired prior to 01.01.2006, therefore, he has been denied the benefit on account of cut-off date as per notification dated 29.09.2009.*

*Learned counsel for the respondents has seriously contested before us that Government has financial constraints, therefore, this benefit cannot be extended uniformly to the persons who sought voluntary retirement prior to 01.01.2006. In this connection, learned counsel for the petitioner has invited our attention to the subsequent notification dated 03.08.2010 of PBOR which reads as under ;*

*“Tele – 23335048*

*Addl Dte Gen Personnel Services*

*Adjutant General's Branch  
Integrated HQ of MoD (Army)  
DHQ PO, New Delhi – 110011  
B/39022/Misc/AG/PS-4 (L)/BC*

*All legal Cells*

*All line Dtes*

**GRANT OF DISABILITY PENSION TO  
PREMATURE RETIREMENT CASES PROCEEDING  
ON DISCHARGE PRIOR TO 01 JAN 2006**

1. *Further to this office note No. A/39022/Misc/AG/PS-4 (Legal) dt 22 Feb 2010 on subject matter.*
2. *It is clarified that as and when a pre-2006 retiree PBOR files a court case to claim disability pension which was denied to him merely because he had proceeded on Pre-Mature Retirement, such cases will be immediately processed for Government Sanction through respective Line Dtes and Not contested. Government Sanctions in which cases will also be proposed in the same manner as that followed in cases of Government Sanctions issued in compliance of court cases.*
3. *This arrangement will be affective till MoD/D(Pen/Legal) formulated and issues comprehensive Govt orders.*
4. *It is re-iterated that only those cases where disability pension was denied to a PBOR solely on the grnds that he had proceeded on PMR will be processed for sanction and will not be contested. Which implies that as and when a PBOR files a case of similar nature their case files will be processed for Govt sanction without awaiting court order.*
5. *Contents of this letter are not applicable to officers as PRA, Rule 50 has been upheld by Hon'ble Supreme Court in judgment dt 06.07.2010 in case of Lt*

*Col Ajay Wahi (SLP. No. 25586/2004, Civil Appeal No. 1002/2006).*

7. *All time Dtes are requested to give vide publicity to this letter amongst all Record Offices.*

*(Ajay Sharma)*

*Col*

*Dir, AG/PS-4 (Legal)*

*For Adjutant General*

*Copy to :*

*MoD/D (Pen/Legal)*

*JAG Deptt*

*It has been clarified that as and when a pre 2006 retiree PBOR files a court case to claim disability pension which was denied to him merely because he had proceeded on Pre-Mature Retirement, such cases will be immediately processed for Government sanction through respective Line Dtes and not contested Government sanctions in which cases will also be processed in the same manner as that followed in cases of Government sanctions issued in compliance of court cases. That means Government has relaxed the condition for the PBOR, even if they sought voluntary retirement prior to 2006 they will not be denied the benefits of disability pension as per rules. If the Government can show benevolence for PBOR then why not same benefit can be given to the officers who are far less in number than PBOR.*

*The plea of the respondents of financial constraints is exploded. The number of PBOR who sought voluntary retirement pre 2006 would be hundred times more than that of officers. Therefore, we think that plea taken by the Government of financial constraints is nothing but an afterthought to somehow justify the*

*administrative action. When this benefit has been extended to PBOR, we see no reason why it should not be released to the officer. More so, the justification of financial constraints pleaded by the respondents is exposed on account of that they have released the benefit to the PBOR which are larger number than that of officer. Therefore, in our opinion, this artificial distinction which has been sought to be made of pre and post 01.01.2006 is without any rational basis. It is only a ploy to deprive the benefits of disability pension to the officers' rank.*

*Hence, we strike down the Clause 3 of the notification dated 29.09.2009. It will be open for the petitioner to make their representations to the authority to seek the disability pension benefit in terms of the aforesaid circular and Government will examine the matter and pass appropriate orders in accordance with law. Petition is accordingly allowed. No order as to costs. Both the connected cases bearing OA Nos. 336/2011 stand disposed of in the light of this order. No order as to costs."*

8. The applicant has also drawn our attention to AFT Chandigarh Bench judgment dated 07.05.2013 in OA 2952 of 2012 Col (Retd) S.P.S. Bedi Vs Union of India and others. The AFT Chandigarh Bench judgment has mostly relied on the Principal Bench judgment quoted above as such does not need any reproduction.

9. In the instant case, there is no dispute that the disability was 30% for two years and was assessed as attributable to

military service. However, the same was not being granted to the applicant on the pretext that he was not entitled to disability pension, as he was released from service at his own request prior to 01.01.2006 and the provisions of the Army Headquarter letter dated 29.09.2009 were not applicable to him. The Principal Bench of the Armed Forces Tribunal vide its **judgment dated 07.02.2012 passed in O.A. No.336 of 2001, Maj. (Retd.) Rajesh Kumar Bhardwaj vs. Union of India and others**, relying on the Hon'ble Supreme Court decision, has struck down the Notification dated 29.09.2009 to the extent of pre and post distinction of 01.01.2006.

10. The applicant retired voluntarily on 21.03.1998 (AN). At that time, the policy did not permit the disability pension to be granted to those personnel who had retired voluntarily. The policy for allowing disability pension to those who retired after 01.01.2006 was issued only on 29.09.2009 and had been made applicable with effect from 01.01.2006. The applicant approached this Tribunal on 12.01.2015. Therefore, we feel that the maximum relief, which the applicant can claim is with effect from 01.01.2006.

11. In this case disability had been assessed as 30% for 2 years as such we refer to the judgment of Hon'ble The Apex Court in case of **Veer Pal Singh vs. Ministry of Defence** reported in (2013) 8 SCC 83 wherein Hon'ble The Apex Court has observed that in such cases Review Medical Board be carried out to reassess the medical condition for further entitlement of disability pension, if any. In the said case, in paras 11, 12, 13, 17, 18 and 19 of the judgment, the observations made by Hon'ble the Apex Court are as under :

*“11. A recapitulation of the facts shows that at the time of enrolment in the army, the appellant was subjected to medical examination and the Recruiting Medical Officer found that he was fit in all respects. Item 25 of the certificate issued by the Recruiting Medical Officer is quite significant. Therein it is mentioned that speech of the appellant is normal and there is no evidence of mental backwardness or emotional instability. It is, thus, evident that the doctor who examined the appellant on 22.05.1972 did not find any disease or abnormality in the behaviour of the appellant. When the Psychiatrist Dr (Mrs) Lalitha Rao examined the appellant, she noted that he was quarrelsome, irritable and impulsive but he had improved with the treatment. The Invaliding Medical Board simply endorsed the observation made by Dr Rao that it was a case of “Schizophrenic reaction”.*

12. In Merriam Webster Dictionary “Schizophrenia” has been described as a psychotic disorder characterized by loss of contact with the environment, by noticeable deterioration in the level of functioning in everyday life, and by disintegration of personality expressed as disorder of feeling, thought (as in delusions), perception (as in hallucinations), and behavior – called also dementia praecox; schizophrenia is a chronic, severe, and disabling brain disorder that has affected people throughout history.

13. *The National Institute of Mental Health, USA has described “schizophrenia” in the following words:*

*“Schizophrenia is a chronic, severe, and disabling brain disorder that has affected people throughout history. People with the disorder may hear voices other people don’t hear. They may believe other people are reading their minds, controlling their thoughts, or plotting to harm them. This can terrify people with the illness and make them withdrawn or extremely agitated. People with schizophrenia may not make sense when they talk. They may sit for hours without moving or talking. Sometimes people with schizophrenia seem perfectly fine until they talk about what they are really thinking. Families and society are affected by schizophrenia too. Many people with schizophrenia have difficulty holding a job or caring for themselves, so they rely on others for help. Treatment helps relieve many symptoms of schizophrenia, but most people who have the disorder cope with symptoms throughout their lives. However, many people with schizophrenia can lead rewarding and meaningful lives in their communities.*

17. *Unfortunately, the Tribunal did not even bother to look into the contents of the certificate issued by the Invaliding Medical Board and mechanically observed that it cannot sit in appeal over the opinion of the Medical Board. If the learned members of the Tribunal had taken pains to study the standard medical dictionaries and medical literature like *The Theory and Practice of Psychiatry* by F.C. Redlich and Daniel X. Freedman, and *Modi’s Medical Jurisprudence and Toxicology*, then they would have definitely found that the observation made by Dr Lalitha Rao was substantially incompatible with the existing literature on the subject and the conclusion recorded by the Invaliding Medical Board that it was a case of schizophrenic reaction was not well founded and required a review in the context of the observation made by Dr Lalitha Rao herself that with the treatment the appellant had improved. In our considered view, having regard to the peculiar facts of this case, the Tribunal should have ordered*



*constitution of Review Medical Board for re-examination of the appellant.*

*18. In Controller of Defence Accounts (Pension) vs. S Balachandran Nair on which reliance has been placed by the Tribunal, this Court referred to Regulations 173 and 423 of the Pension Regulations and held that the definite opinion formed by the Medical Board that the disease suffered by the respondent was constitutional and was not attributable to military service was binding and the High Court was not justified in directing payment of disability pension to the respondent. The same view was reiterated in Ministry of Defence vs A.V. Damodaran. However, in neither of those cases, this court was called upon to consider a situation where the Medical Board had entirely relied upon an inchoate opinion expressed by the psychiatrist and no effort was made to consider the improvement made in the degree of illness after the treatment.*

*19. As a corollary to the above discussion, we hold that the impugned order as also the orders dated 14.07.2011 and 16.09.2011 passed by the Tribunal are legally unsustainable. In the result, the appeal is allowed. The orders passed by the Tribunal are set aside and the respondents are directed to refer the case to the Review Medical Board for reassessing the medical condition of the appellant and find out whether at the time of discharge from service he was suffering from a disease which made him unfit to continue in service and whether he would be entitled to disability pension.”*

12. In this case we feel called upon to refer to judgment and order of Hon’ble The Apex Court in case of **Sukhvinder Singh Vs. Union of India**, reported in (2014) STPL (WEF) 468 SC, wherein the Hon’ble Apex Court has held about disability pension as under:

*“9. We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless*

*proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount to granting a premium to the Recruitment Medical Board for their own negligence. Secondly, the morale of the Armed Forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined. Thirdly, there appears to be no provisions authorizing the discharge or invaliding out of service where the disability is below twenty percent and seems to us to be logically so. Fourthly, wherever a member of the Armed Forces is invalided out of service, it perforce has to be assumed that his disability was found to be above twenty percent. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty percent disability pension.”*

13. In **Union of India and Ors vs Ram Avtar & ors (Civil Appeal No 418 of 2012 dated 10<sup>th</sup> December 2014)** in which Hon’ble The Apex Court nodded in disapproval the policy of the Government of India in not granting the benefit of rounding off of disability pension to the personnel who have been invalided 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."*

14. In view of the aforesaid discussion, we are of the view that the instant Original Application deserves to be allowed. The applicant is entitled to 30% disability pension for 02 years with effect from 01.01.2006 which needs to be rounded off to 50% as per policy and in the light of the judgments of Hon'ble The Apex Court in case of **Sukhvinder Singh Vs. Union of India** (supra) and **Union of India & others vs. Ram Avtar & ors** (supra). The Applicant is liable to be paid arrears of disability pension with interest @ 9% per annum from 01.01.2006. We are also of the view that in terms of **Veer Pal Singh's** case (supra), the case of the petitioner needs to be referred to Review Medical Board for reassessing

the medical condition of the petitioner for further entitlement of disability pension, if any.

15. In the result, the Original Application succeeds and is allowed. The order dated 13.11.2014 (Annexure A-1) is set aside. The respondents are directed to grant 30% disability pension for 02 years with effect from 01.01.2006 which would stand rounded off to 50% as per policy and in the light of the judgments of Hon'ble The Apex Court in case of **Sukhvinder Singh Vs. Union of India** (supra) and **Union of India & others vs. Ram Avtar & ors** (supra). The respondents are also directed to pay arrears of disability pension with interest @ 9% per annum from 01.01.2006. We also direct that in terms of **Veer Pal Singh's** case (supra), the case of the petitioner be referred to Review Medical Board for reassessing the medical condition of the petitioner for further entitlement of disability pension, if any. Respondents are directed to give effect to the order within three months from the date of receipt of a certified copy of this order.

16. No orders as to costs.

(Lt Gen Gyan Bhushan)  
Member (A)

(Justice V.K. DIXIT)  
Member (J)

Date : November , 2015  
SB