

**Court No. 1**

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

**Original Application No 531 of 2022**

Friday, this the 16<sup>th</sup> day of December, 2022

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Lt Gen Rakesh Kumar Anand, Member (A)**

Sarvesh Kumar  
S/o No. 2955210 Ex Sep Late Fauzdar Singh  
R/o Mohalla – Ganganagar Colony,  
District – Farrukhabad (UP) - 209625

..... **Applicant**

Ld. Counsel for the Applicant: **Shri Vijay Kumar Pandey &**  
**Shri Girish Tiwari, Advocate**

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, RK Puram, New Delhi-110011.
2. OIC Records, Records The Rajput Regiment, PIN-900427, C/o 56 APO.
3. PCDA (P), Draupadi Ghat, Allahabad (UP) – 211014.

..... **Respondents**

Ld. Counsel for the Respondents : **Shri Anurag 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:-

“(i) That this Hon’ble Tribunal may kindly be pleased to set aside the impugned rejection order of disability pension, if any, and grant the disability pension @ 30% rounded off 50% for life to the applicant w.e.f. 17.04.2007, to actual date of payment and also onwards and provide the interest on the aforesaid delayed amount of disability pension with 18% p.a. since due date to actual date of payment in the interest of justice.

(ii) That this Hon’ble Tribunal may kindly be awarded the cost Rs. 20,00,000/- (Rupees Twenty Lac Only) to the applicant against the opposite parties.

(iii) That this Hon’ble Tribunal may be pleased to pass any other order or direction which this Hon’ble Court may deem just and proper be passed in favour of the applicant.”

2. Counter affidavit filed by the respondents is taken on record.

3. Brief facts of the case are that after retirement from service, father of the applicant was getting 20% disability pension vide PCDA (P) Allahabad PPO No. D/614/73 and died on 18.03.2008. Thereafter, ordinary family pension was granted to the mother of the applicant namely Smt. Urmila Devi till her death, i.e. 12.11.2008. The applicant submitted several letters for Life Time Arrear of broad banding of his deceased father disability pension w.e.f. 01.01.1996 to 18.03.2008 but nothing has been paid so far. Being aggrieved

applicant has filed instant case for grant of arrears of disability pension of his father.

4. Learned counsel for the applicant pleaded that after retirement from service, father of the applicant was getting 20% disability pension vide PCDA (P) Allahabad PPO No. D/614/73 and died on 18.03.2008. Thereafter, ordinary family pension was granted to the mother of the applicant namely Smt. Urmila Devi till her death, i.e. 12.11.2008. The applicant submitted several letters for Life Time Arrear of broad banding of his deceased father disability pension w.e.f. 01.01.1996 to 18.03.2008 but nothing has been paid so far. The case of the applicant is covered by the judgment of the Hon'ble Apex Court in the case of **Sukhvinder Singh vs. UOI & Ors**, Civil Appeal No. 5605 of 2010, decided on 25.06.2014 and AFT (PB) New Delhi judgment in OA No. 1439 of 2016, **Sgt Girish Kumar vs. UOI & Ors**, decided on 01.12.2017 and grant of benefit of rounding off of the disability pension is covered with the judgment of the Hon'ble Apex Court in the case of **Union of India & Ors vs. Ram Avtar & Ors** (Civil Appeal No. 418 of 2012, decided on 10.12.2014). He pleaded that directions be issued to respondents to grant benefit of rounding off to the deceased father of the applicant from the date

of applicability, i.e. w.e.f. 01.01.1996 to date of death, i.e. 18.03.2008 and pay arrears to the applicant accordingly.

5. On the other hand, learned counsel for the respondents submitted that father of the applicant was invalided out from service w.e.f. 02.11.1972 due to disability "ECZEMA" which was conceded as aggravated by military service and assessed disability @ 20% for one year which was later on assessed for @ 20% for life. Ex Sepoy Fauzdar was in receipt of disability element for the period from 01.01.1996 until his death, i.e. 18.03.2008, therefore, the Next of Kins of Ex Sepoy Late Fauzdar are eligible for payment of Life Time Arrears. Accordingly, Rajput Records vide letter dated 20.09.2022 has processed LPC cum Data Sheet and other connected documents to PCDA (P) Allahabad for notification of PPO for LTA claim in respect of the applicant..

6. Learned counsel for the respondents further submitted that as per records, Ex Sep Late Fauzdar Singh was married to Smt. Urmila Devi and three children, namely Mr. Sharvesh Kumar, Ms. Kiran Chauhan and Ms. Sadhana Chauhan, born out of their wedlock. Since, LTA claim for notification of PPO is under progress with PCDA (P) Allahabad, necessary payment will be made to the children of the deceased soldier.

7. We have heard learned counsel for the parties and perused the material placed on record.

8. Upon hearing the submissions of learned counsels of both sides and having gone through the documents placed on record, we find that father of the applicant, Ex Sep Late Fauzdar Singh was in receipt of 20% disability element for life. Since father of the applicant was invalided out from service w.e.f. 02.11.1972 and benefit of rounding off is applicable w.e.f. 01.01.1996 only, accordingly, the same is extended to the deceased soldier from 01.01.1996 in view of the judgment of the Hon'ble Apex Court in the case of **Ram Avtar** (supra) till his death, i.e. 18.03.2008.

9. In view of above, we are of the view that legal heirs of Ex Sep Late Fauzdar Singh are entitled for grant of arrears of LTA, i.e. benefit of rounding off of disability element. In the instant case though only Mr. Sharvesh Kumar has claimed to get LTA of his father but as per counter affidavit, Ex Sep Late Fauzdar Singh has three children and therefore, all three children are entitled for arrears. Hence, arrears of LTA to be divided equally in all three children as wife of the deceased soldier, Smt. Urmila Devi is no more.

10. Thus, in the result, Original Application succeeds and is **allowed**. The disability element of the deceased soldier is rounded off from 20% to 50% from 01.01.1996 (date of applicability) to 18.03.2008 till death of the deceased soldier. Since, Ex Sep Late Fauzdar Singh has three children, Mr. Sharvesh Kumar, Ms. Kiran Chauhan and Ms. Sadhana Chauhan but only Mr. Sharvesh Kumar has filed the Original Application, therefore, respondents are directed to verify the facts of all three children of the deceased soldier and divide arrears of LTA, i.e. benefit of rounding off from 01.01.1996 to 18.03.2008 amongst them equally. 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 @ 8% on the amount accrued from due date till the date of actual payment.

11. No order as to costs.

12. Pending Misc. Application(s), if any, shall stand disposed off.

**(Lt Gen Rakesh Kumar Anand)**  
**Member (A)**

Dated: 16<sup>th</sup> December, 2022  
SB

**(Justice Umesh Chandra Srivastava)**  
**Member (J)**