

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No 319 of 2019

Krishna Dayal Mishra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>30.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Virat Anand Singh, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p>2. This Original Application has been filed by the applicant for grant of arrears of disability pension @ 20% from 01.07.2005 to 31.12.2005, to pay arrear of disability pension from 20% to 50% since 01.07.2006 to 01.06.2014 and for payment of Rs 67,192/- + Rs 33,789/- total 1,00981/- under capitalized value.</p> <p>3. Briefly stated facts of the case are that applicant was enrolled in the Indian Army on 05.09.1987 and was discharged on 01.07.2005 on completion of terms of engagement after rendering 17 years of service in Low Medical Category P-2 (Permanent). At the time of discharge, Release Medical Board of the applicant was held on 12.03.2005 at Military Hospital, Amritsar and his disability (a) 'OBSETY 278' assessed as 11-14%, considered as neither attributable to nor aggravated by military service and disability (b) 'ASTHMATIC BRONCNITIS 493' assessed as 30% for life and considered as aggravated by service. PCDA (P), Allahabad, Pension sanctioning authority accepted the disability pension and notified disability element @ 20% for life from 01.07.2005 onward vide PPO No DE/014162/2005 dated 05.01.2005 as amended from time to time. Being aggrieved, the applicant has filed instant O.A. for broad banding of disability pension from 20% to 50%.</p> <p>4. Learned counsel for the applicant submitted that Signal Records approached the Bank concerned vide letter dated 05.07.2013 for broad banding of disability pension from 20% to 50% but the same has not yet been granted. He prayed for broad banding of disability pension from 01.07.2005 and to grant arrear thereof.</p>

5. On the other hand, learned counsel for the respondents submitted that applicant is not entitled broad banding of disability pension in terms of PCDA (Pension) Circular No 596 dated 09.02.2018 and Govt of India, Min of Def letter dated 23.01.2018. As per these policies, in case of invaliding out, broad banding is applicable from the date of discharge but in case of retirement on completion of terms of engagement, broad banding is applicable from 01.01.2016 however disability pension of the applicant was broad banded from 01.07.2014 and applicant was granted arrears also.

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

7. In view of the decision of Hon'ble Apex Court in the case of ***Shiv Dass vs. Union of India***, reported in 2007 (3) SLR 445, we are of the considered view that benefit of rounding off of disability pension @ 20% for life to be rounded off to 50% for life may be extended to the applicant from three preceding years from the date of filing of the Original Application.

8. Perusal of policy letter, Circular and judgments reveal that applicant was granted disability pension @ 20% for life from the date of discharge. His disability pension has been broad banded from 01.07.2014. In view of the facts and circumstances of the case, we find that applicant's disability pension has been broad banded as per rule.

9. In the result, we hold that the claim of the applicant for broad banding of disability pension has rightly been rejected by the respondents which needs no interference. Resultantly, O.A. is **dismissed**.

10. No order as to cost.

11. Pending applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

UKT/-