

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 1086 of 2022**

Tuesday, this the 16<sup>th</sup> day of May, 2023

**Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)**  
**Hon'ble Vice Admiral Atul Kumar Jain, Member (A)**

Smt. Rajeshwari widow of No. 1076705W Ex. Dfr Late Inder Pal Singh, R/o 754/30 Ekta Nagar, Roorkee Road, Krishna Nagar, District- Meerut, (U.P.) 250001.

**.... Applicant**

**Counsel appeared - Shri R. Chandra, Advocate**  
**for the applicant**

Versus.

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi- 110011.
2. The Chief of the Air Staff, Air Headquarters, New Delhi.
3. Officer-In-Charge, Armd Corps Records, Pin-900476, C/o 56 APO.
4. The Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad – 14 (U.P.)

**.....Respondents**

**Counsel appeared for - Shri Rajeev Narayan Pandey,**  
**Respondents Advocate,**

**ORDER****(Per Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J))**

1. Being aggrieved by the denial of rounding off of disability pension from 20% to 50% for the period 01.04.2007 to 31.12.2015, the applicant, widow of Ex Dfr Late Inder Pal Singh has approached this Tribunal by means of present O.A. Accordingly, this Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant for following relief:-

“(i) The Hon'ble Tribunal may pleased to set aside the rejection order dated 30.09.2022 (Annexure No. A-1).

(ii) The Hon'ble Tribunal may be pleased to direct the respondents to grant Broad Banding Benefit to applicant's late husband's disability element @ 50% for the period 01.04.2007 to 31.12.2015.

(iii) Hon'ble Tribunal may be pleased further to grant benefit of rounding of disability pension @ 50 % in terms of Ram Avtar's case and KJS Buttar case.

(iv) Any other appropriate order or direction which the Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case. ”

2. The brief facts of the case, as borne out from the pleadings of the parties are that the husband of the applicant was enrolled in Army on 20.03.1983 in the Armed Corps. He was discharged after rendering 24 years and 12 days' service on 31.03.2007 in low medical category with 20% disability for life, vide PPO No.

S/056117/2006 dated 15.02.2007. At the time of discharge from service, RMB held at 159 General Hospital and the applicant's late husband was placed in low medical category for disability viz **PLANTER FASCITIS (RT)**. The Release Medical Board viewed his aforesaid disability as aggravated by Military service. Applicant's husband died on 24.12.2019. Thereafter the applicant submitted her appeal to the respondents to grant benefit of broad banding of her late husband's disability element from 01.04.2007 to 31.12.2015. Respondents have granted benefit of rounding off @ 50% w.e.f. 01.01.2016 under the provisions of CDA (P) Allahabad circular No. 596 dated 09.02.2018.

3. Feeling aggrieved against the inaction of the respondents in not rounding off of his disability pension from 20% to 50% for the period 01.04.2007 to 31.12.2015, applicant preferred an appeal on 13.06.2022 before the respondents for rounding off her late husband's disability pension. Respondents denied the request of the applicant on the ground that her husband was discharged after completion of his normal term of service, he is not entitled for the benefits of rounding off of his disability pension.

4. The Release Medical Board held on 13.11.2006 before discharge assessed his aforesaid disability as aggravated to Military service, opining the disability of the applicant as 20% for life.

Accordingly, the Applicant was sanctioned disability pension at the rate of 20% for life.

5. We have heard learned counsel for the applicant as also, Ld. Counsel for the respondents and perused the record. We have also gone through Medical Board Proceedings (Annexure –R-2 to O.A) vide which the disability was assessed as aggravated due to stress and strain to military service @ 20% disability pension.

6. In the instant case, the respondents have filed the counter affidavit and submitted that benefit of broad banding of percentage of disability/ war injury as provided in Para 7.2 of MoD letter dated 31.01.2001, shall be extended to Armed Forces Officers and PBOR who were invalided out of service prior to 01.01.1996 and are in receipt of disability / war injury pension as on 01.01.01996. In the instant case, deceased was discharged from service on 31.03.2007 on completion of terms of engagement and not invalided out of service. Further submitted that Circular No. 596 dated 09.02.2018 extended the benefit of rounding off to all the personnel with effect from 01 Jan 2016, wherein, all PDAs are authorised to carry out revision/rounding off of disability element of all pre 01 Jan 2016 pensioners w.e.f. 01.01.2016 without calling any application from the pensioners without any further authorisation from the concerned PSA. Accordingly, the deceased had been granted disability element @20% w.e.f 01.04.2007 to 31.12.2015 and thereafter @50% till

death of deceased as per policies in vogue. Applicant is not entitled for rounding off benefit of disability element with effect from 01.04.2007 to 31.12.2015.

7. The law on the point of rounding off of disability pension is no more RES INTEGRA in view of Hon'ble Supreme Court judgment in the case of ***Union of India and Ors vs Ram Avtar & ors*** (Civil appeal No 418 of 2012 decided on 10<sup>th</sup> December 2014). In this Judgment the Hon'ble Apex Court nodded in disapproval of the policy of the Government of India in granting the benefit of rounding off of disability pension only to the personnel who have been invalidated out of service and denying the same to the personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision 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."*

8. In view of the above, the Original Application deserves to be allowed. Accordingly, the **Original Application No. 1086 of 2022 is allowed.** The disability element which was assessed as 20% for life shall stand rounded off to 50% for life from the next date of discharge i.e. 31.03.2007. As such, respondents are directed to grant broad banding benefit to applicant's late husband's disability element from 20% to 50% for the period 01.04.2007 to 31.12.2015. The amount already paid to the applicant shall be adjusted against the arrears due. 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.

9. There shall be no order as to costs.

**(Vice Admiral Atul Kumar Jain) (Justice Ravindra Nath Kakkar)**  
**Member (A) Member (J)**

Dated: May 16, 2023  
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