

By Circulation
Court No. 1

ARMED FORCES TRIBUNAL REGIONAL BENCH,
LUCKNOW

Review Application No. 61 of 2018

In Re: O.A. No. 243 of 2017

Thursday, the 11th day of October, 2018

**“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)
Hon’ble Air Marshal BBP Sinha, Member (A)”**

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff, Integrated Headquarters of Ministry of Defence (Army), south Block, new Delhi – 110011.
3. The ADGPS, IHQ of MOD (Army), South Block, DHQ PO, New Delhi.
4. OC EME Records, Secunderabad.
5. Principal Controller of Defence Account (Pension), Draupadi Ghat, Allahabad.

.... Applicants/Respondent

Versus

Ex Cfn Kamlesh Kumar Dey (No. 14675519L)
R/O C-3/9 Geeta Palli, Alambagh, Lucknow- 226005.

.....Respondent/Applicant

ORDER

1. The applicants/respondent has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008. The matter came up before us by way of Circulation as per provisions of Rule 18 (3) of the AFT

(Procedure) Rules, 2008 to review its judgment and order dated 02.02.2018 passed in O.A. No 243 of 2017.

2. It is stated in the Review Application that while allowing the O.A. this Tribunal has directed for rounding off the disability pension from 20% to 50% for two years from the date of discharge, i.e. 30.09.1979. It is stated that the applicant Ex Cfn Kamlesh Kumar Dey was invalided out from service on 30.09.1979 and the policy of broad-banding came into effect from 01.01.1996. Thus, an error apparent on the face of record has crept in the Tribunal's order directing rounding off disability pension @ 20% to 50 % for two years from the date of discharge and the same needs to be corrected.

3. While deciding O.A. No 243 of 2017 following order was passed by this Tribunal:-

"10. In view of the above, we are of the view that the impugned orders passed by the competent authority were not only unjust, illegal but also not in conformity with Rules, Regulations and Law. The impugned orders deserve to be set aside and the applicants' disability considered as 20% needs to be rounded off as 50% for two years.

11. Thus in the result, the Original Application No 243 of 2017 succeeds and is allowed. The impugned orders rejecting the disability pension are set aside. The respondents are directed to grant disability pension to the applicant @ 20% for two years, which shall stand rounded off to 50% from the date of discharge. The respondents are also directed to refer the applicant's case to Re-Survey Medical Board for reassessing the medical condition of the applicant for further entitlement of disability pension, if any, within a period of three months from this date. The respondents are directed to pay to the applicant the disability pension alongwith arrears within four months from the date of receipt of a certified copy of this order. In case the respondents fail to pay the amount to the applicant within four months, they will have to pay interest @ 9% from due date till the date of actual payment.

4. This review application is allowed and the words “which shall stand rounded off to 50%” shall stand omitted from the operative part of order 02.02.2018.
5. Original order is corrected accordingly.
6. The respondents shall comply with the order within four months from the date of production of a certified copy of this order.

(Air Marshal BBP Sinha)
Member (A)

(Justice S.V.S. Rathore)
Member (J)

Dated : 11 October 2018
ukt/-