

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 189 of 2021**Thursday, this the 28th day of October, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)Ex 6790248 Sep Ram Sarup of AMC
R/o Vill – Nawada, PO – Shirola,
Distt – Farrukhabad (UP)

..... Applicant

Ld. Counsel for the Applicant: **Shri R.N. Tripathi**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi.
2. OIC The Records office, The Army Medical Corps.
3. PCDA (P) Prayagraj (Allahabad).

..... Respondents

Ld. Counsel for the Respondents : **Shri Arvind Kumar Pandey**,
Central Govt Counsel.**ORDER**

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:-

“(a) An order or direction to the respondents for revising the pensionary benefits of the applicant since 31 May 1972 (the date of the discharge) and paying the arrears thereof along with the payment of the One Rank One Pension (OROP).

(b) To allow the OA with the costs.

- (c) Any other or further order or direction which this Hon'ble Court may deem just, fit and proper in the circumstances of the case and in the interest of the justice."

2. Briefly stated facts are that applicant was enrolled in Indian Army on 27.11.1956 and was discharged from service on 31.05.1972 under Rule 13 (3) III (i) of Army Rules, 1954 after rendering 15 years, 6 months and 04 days of service. The applicant is in receipt of reservist pension vide PPO No. S/21529/72 dated 23.10.1972 which has been revised from time to time and fixed Rs. 9000/- as on 01.01.2016 according to PCDA (P) Allahabad, Circular No. 570 dated 31.10.2016. The applicant approached to AMC Records for benefit of 20% additional quantum of pension on attaining the age of 80 years vide his personal application dated 02.02.2017 addressed to OIC Records mentioning therein that his date of birth as per discharge certificate is 01.07.1936 but in PPO only age i.e. 35 years is mentioned and not date of birth, hence, he is unable to get the benefit of 20% additional quantum of pension. The AMC Records issued necessary directions to PDA of the applicant vide letter dated 22.02.2017 but he has not been paid additional 20% pension on completion of 80 years of age. Being aggrieved the applicant has filed the present Original Application.

3. It is submitted by learned counsel for the applicant that applicant was granted reservist pension vide PPO No. S/21529/72 dated 23.10.1972 but his pension has not been revised from time to time as per Govt. orders on attaining the age of 80 years but it is static. He has not been given the benefit of OROP unlike the other

Armed Forces personnel which is contrary to equality before law. He pleaded that applicant should also be paid benefit of OROP and additional 20% pension on attaining the age of 80 years alongwith arrears.

4. Per contra, learned counsel for the respondents submitted that applicant was enrolled in Indian Army on 27.11.1956 and was discharged from service on 31.05.1972 under Rule 13 (3) III (i) of Army Rules, 1954 after rendering 15 years, 6 months and 04 days of service. The applicant is in receipt of reservist pension vide PPO No. S/21529/72 dated 23.10.1972 which has been revised from time to time and fixed Rs. 9000/- as on 01.01.2016 according to PCDA (P) Allahabad, Circular No. 570 dated 31.10.2016. The applicant approached to AMC Records for benefit of 20% additional quantum of pension on attaining the age of 80 years vide his personal application dated 02.02.2017 addressed to OIC Records mentioning therein that his date of birth as per discharge certificate is 01.07.1936 but in PPO only age i.e. 35 years is mentioned and not date of birth, hence, he is unable to get the benefit of 20% additional quantum of pension. The AMC Records issued necessary directions to PDA of the applicant vide letter dated 22.02.2017 but he has not been paid additional 20% pension on completion of 80 years of age.

5. Learned counsel for the respondents further submitted that as per para 14 of PCDA (P) Allahabad Circular No. 570 dated 31.10.2016, PDAs have been authorised to step up the pension of the affected pensioners from 01.01.2016. Hence, there is no need to

issue Corrigendum PPO. As per para 4 of PCDA (P) Allahabad Circular No. 555 dated 04.02.2016, OROP is not applicable for Reservist pensioners, hence benefit of OROP cannot be extended to the applicant. The applicant is entitled for 20% additional quantum of service pension on attaining the age of 80 years in terms of para 10 of PCDA (P) Allahabad Circular No. 570 dated 31.10.2016 without any further authorisation from the concerned Pension Sanctioning Authorities and PDAs are authorised to step up the pension. He pleaded for dismissal of OA.

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

7. We find that applicant's date of birth is recorded as 01.07.1936 in Discharge Book issued to him and in PPO No. S/21529/72 dated 23.10.1972 only age i.e. 35 years is mentioned and not date of birth. As per AMC Records letter dated 22.02.2017 addressed to Treasury Office, Farrukhabad (UP), it is mentioned that "*in case only age is mentioned in the PPO, the additional pension will start from 1st January of the year following the years in which pensioner has completed the age of 80 years.*" So, keeping in view either date of birth (01.07.1936) or age 35 years as mentioned in the PPO at the time of retirement on 01.06.1972, applicant's 80 years age is completed on 01.07.2016 and 01.06.2017 respectively. Therefore, we have come to a conclusion that though the applicant is not entitled the benefit of OROP but he is entitled to 20% additional pension either from 01.07.2016 or 01.06.2017 on the day he is completing 80 years

of age as per date of birth recorded in Discharge Book or as per age 35 years as recorded in PPO respectively but preferably, additional 20% pension to be granted as per date of birth recorded in Discharge Book.

8. Accordingly, Original Application is **partly allowed**. The respondents are directed to issue Corrigendum PPO to the applicant mentioning his date of birth (01.07.1936) therein and grant additional 20% pension to the applicant w.e.f. 01.07.2016 i.e. on the day he is completing 80 years of age. The respondents shall complete the whole exercise as expeditiously as possible, say, within four months from the date of presentation of a certified copy of this order. If the needful is not done within the stipulated time, the arrears accruing to the applicant by virtue of this order shall carry interest @ 8 % per annum from the due date till date of actual payment.

9. No order as to costs.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: October, 2021
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