

**RESERVED**  
**COURT NO.1**

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

**ORIGINAL APPLICATION NO.136 of 2019**

**Monday, this the 30<sup>th</sup> day of September, 2019**

**Hon'ble Mr. Justice Virender Singh, Chairperson**

**Hon'ble Air Marshal BBP Sinha, Member (A)**

No.3160366 Ex Rect Mahavir Singh,  
S/o Late Mahipal Singh,  
R/o Village Malav Post Malav,  
Tehsil Khair, Aligarh, U.P.202165.

.....Applicant

Ld. Counsel for :  
the Applicant

**Shri BB Tripathi,**  
**Advocate**

Versus

1. Union of India through the Secretary,  
Ministry of Defence, Government of India,  
New Delhi.
2. The Chief Records Officer,  
Jat Regiment, Bareilly 243004.
3. The Principal Controller of Defence Accounts (Pension),  
Draupadi Ghat, Allahabad 211014.
4. Chief Manager, Allahabad Bank, CPPC, 3<sup>rd</sup> Floor, Zonal Office,  
New Building, Hazratganj, Lucknow 226 001.
5. Assistant General Manager,  
Allahabad Bank, Aligarh 202165.

.....Respondents

Ld. Counsel for the :  
Respondents

**Shri AN Tripathi & Shri GK Srivastava,**  
**Ld. Counsel for the Respondents.**

**ORDER**

**“Per Hon’ble Mr. Justice Virender Singh, Chairperson”**

1. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant for grant of disability pension. He has prayed for following reliefs :

*“(a) issue an order, direction and command to the respondents particularly respondent nos. 4 & 5 to pay the service element as well as disability element as per orders issued by respondent no.3 contained in Annexure nos. 5 & 8 respectively alongwith interest as per RBI guidelines with all consequential benefits.*

*(b) issue an order, direction and command to the respondents to consider and decide the representation of the applicant, contained in Annexure no.4 by passing a reasoned and speaking within the time frame so fixed by this Hon’ble Tribunal by granting the relief(s) as prayed for therein.*

*(c) issue such other order/direction which may be deemed just and proper in the circumstances of the case.*

*(d) allow the Original Application with cost against the respondents in view of the facts and circumstances, legal provisions and Grounds raised in the application.*

*(d-i) to issue an order, direction and command to the respondents to grant the benefit of broad binding of disability element as per PCDA (Pension), circular dated 429 and 529 through the applicant filled up the required form and submitted the same to respondent no.5 and also to pay arrears thereof w.e.f. 01.01.1996 as well as interest thereon.*

*(d-j) to issue an order, direction and command to the respondents to pay interest on the service arrears from the date of due to the date of realization arrears as per RBI guidelines alongwith all other consequential benefits.*

*(d-k) to issue an order, direction and command to the respondents to pay the interest on the arrears of 20% disability element Rs.174495/- as per RBI guidelines from the date of due to the date of actual payment alongwith all other consequential benefits.”*

2. At the very outset it may be observed that the petition for grant of disability pension has been preferred by the applicant with delay of more than 20 years. Since payment of pension involves recurring cause of action, as such, the delay was condoned and the petition was admitted.

3. In brief, the facts necessary for the purpose of this O.A. are that the applicant was enrolled in the Army on 22.08.1969 and was invalided out of service on 21.04.1970. The Invaliding Medical Board assessed the disability **“WHITLOW TERMINAL PHALANX RT THUMB EFFECTS OF”** of the applicant @ 30% as “Attributable to Military service” vide MH Bareilly AFMSF-16 dated 20.02.1970. The applicant was granted disability pension @ 30% from 22.04.1970 to 19.02.1980 vide PPO dated 14.07.1970. After carrying out Re-survey Medical Board (RSMBs) from time to time, the disability of the applicant in the last RSMB was assessed @ 20% (P) w.e.f. 01.05.1995 for life vide MH Agra Cantt, AFMSF-17 order dated 23.11.1994, disability pension was granted to the applicant w.e.f. 01.05.1995 for life vide PPO dated 21.02.1995. Thereafter the applicant represented his grievance before the appropriate authority for grant of disability pension w.e.f. 01.01.1996 and when his grievance has not been redressed, the applicant moved a representation on 15.11.2016 to the respondent no.4 for non-payment of OROP, disability element and correct rate of service pension as per RBI Guidelines. On 17.01.2017 on receipt of the representation of the applicant, the respondent no.3 issued order by which rate of service element as well as rate of disability element has been given with a request to respondent no.4 to take immediate action for payment of revised service element and disability element. When no action has been taken by the respondent nos. 4 and 5 regarding releasing the correct service element as well as disability element alongwith arrears, the applicant preferred the instant O.A. for the aforesaid reliefs.

4. It is submitted by the learned counsel for the applicant that earlier he was getting service element and disability element from respondent No. 4 & 5 and his disability element had been incorrectly stopped w.e.f. 31.10.2001. He further clarified that during the pendency of this O.A., respondent No. 4 & 5 have cleared all his dues of service element and disability element in April 2017. He claims that the only prayer pending from the applicant side is for broad banding of disability element from 20 to 50% for life and for payment of interest by Bank on delayed payment of disability element after a gap of 15 years i.e. stopped in 2001 and recommenced in 2017.

5. On the other hand, learned counsel for the respondents submitted on behalf of respondent No. 1 & 2 that the case of broad banding is being taken up with PCDA (P) Allahabad. The learned counsel for the respondent No. 4 & 5 submitted that disability element PPO of the applicant was not there with CPPC of Allahabad Bank at Lucknow hence his pension got discontinued w.e.f. 2002, however after clarification from PCDA (P) Allahabad they have given all the arrears of disability element and restored it w.e.f. April 2017. He claimed that now there is no pendency of applicant's pension either for service element or for disability element. He prayed that since all claims of the applicant have been satisfied, the O.A. should be dismissed.

6. We have heard all the parties. Admittedly the applicant has got all his dues of service element and disability element. In this scenario the question before us is twofold. Firstly, is the applicant entitled for interest from respondent No. 4 & 5 for about 15 years of delayed payment of disability

element as per the guidelines set up by RBI. Secondly, is the applicant entitled for broad banding from 20% to 50% for life?

7. On careful analysis of the whole situation, following facts are clear to us :-

(a) That the applicant was drawing his service element as well as disability element of pension from Allahabad Bank, Tappal Branch, Aligarh after his discharge in 1970.

(b) That the applicant was provided with regular service element pension till date however, his disability element despite being a PPO for life, since 1995 was stopped by his Allahabad Bank on 31.12.2001.

(c) It appears that the prime reason for stopping a running pension for life (disability element) was internal failure of bank to distinguish the difference between a service element and a disability element pension. In addition the failure of Allahabad Bank, Tappal Branch, Aligarh to forward disability element PPO to newly formed CPPC of Allahabad Bank at Lucknow also contributed immensely in this slip up. Since CPPC's were the new pay masters for pension, non transfer of applicant's PPO for disability element has apparently resulted in stoppage of his disability element w.e.f. 2002.

(d) His disability element with arrears from 2002 has been paid to him by Allahabad Bank in April 2017 after filing of the present O.A. and intervention of PCDA (P) Allahabad.

8. In the above scenario, we are clear that the banks i.e. respondent no. 4 & 5 can't wash off their hands by saying that we have paid the arrears of last 15 years and we have no liabilities now. This is a prime case of gross negligence and poor service by the bank. Hence, it will be in the interest of justice if the respondent No. 4 & 5 pay interest on the delayed payment of disability element to the applicant as per RBI guidelines on the subject.

However, they are at liberty to hold an inquiry and recover this interest from their own erring officers in future.

9. Additionally the applicant is entitled to the benefit of rounding off from 20% to 50% for life w.e.f. 01.01.1996 as per the law settled by the Hon'ble Supreme Court in the case of **Union of India vs. Ram Avtar & Others**, (Civil Appeal No. 418 of 2012. However, due to law of limitations as settled by the Hon'ble Supreme Court in the case of **Shiv Dass vs. Union of India**, reported in 2007 (3) SLR 445, the applicant will be entitled to arrears of broad banding from preceding three years before filing of this O.A.

10. In view of the above, the O.A. is partly allowed. Respondent No. 4 & 5 are directed to pay interest on delayed payment of disability element of pension from 2002 till it was actually paid in April 2017 as per RBI guidelines. Respondent No. 1, 2 & 3 are directed to ensure that the applicant is provided the benefit of rounding off of disability element from 20% to 50% by issuance of a new PPO. This order is to be implemented within a period of four months from the date of receiving a certified copy of this order. Default will result an interest @ 8% per annum from due date till actual date of payment.

No order as to costs.

**(Air Marshal BBP Sinha)**  
**Member (A)**

Dated: September, 2019

PKG/SB

**(Justice Virender Singh)**  
**Chairperson**