

Court No. 1
RESERVED

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

Original Application No. 408 of 2018

Monday, this the 25th day of January, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

IC-51157H Col Ravinder Singh, SM, S/O Sri Pradhan Singh,
R/O H. No. 11, Ward No 3, Jai Niwas Secretariat, Hamirpur,
presently posted as Dy. Comdt, The Rajpoot Regimental Centre,
Fatehgarh (U.P.).

.... **Applicant**

Ld. Counsel for the: **Shri Anand Kumar Yadav**, Advocate.
Applicant

Versus

1. The Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff, Integrated Headquarter of Ministry of Defence (Army), South Block, New Delhi-110011.
3. Addl. Dte Gen Pers Services (PS-3), Adjutant General Branch, IHQ of MoD (Army), DHQ, PO, New Delhi-11.
4. PCDA (O), Golibar Maidan, Pune-1.

... **Respondents**

Ld. Counsel for the: **Dr. Shailendra Sharma Atal**,
Respondents Central Govt Counsel.

ORDER

1. The instant Original Application has been filed on behalf of the petitioner under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the petitioner has sought following reliefs:-

- (I) Issue/pass an order or direction of appropriate nature whereby commanding the respondents to grant regular War Injury pension to the applicant instead of lump sum compensation with all consequential benefits.*
- (II) Issue/pass any order or direction of appropriate nature which this AFT may deem fit and proper in the facts and circumstances of the case.*
- (III) Allow the application with all consequential benefits with exemplary cost.*

2. Brief facts of the case are that the applicant was commissioned in the Indian army on 13.01.1992. While posted in Siachen Glacier under Operation Meghdoot in 1996, on 06.09.1996, applicant sustained severe injury on right leg and was admitted to Command Hospital (Western Command), Chandimandir. He was treated and his right leg below knee was amputated. Thereafter, his Disability Compensation Medical Board (DCMB) was held at Command Hospital (Eastern Command), Kolkata on 18.11.1997 vide which he was downgraded to low medical category for 'Transitional Amputation' with 70% disability attributable to military service and the officer was retained in service. The applicant opted to draw lump sum compensation in lieu of war injury element and foregone war injury pension. A sum of Rs 2,31,084/- was granted vide letter dated 10.12.1999. The Govt of India, Ministry of Defence vide letter

dated 31.01.2001 revised lump sum compensation award and accordingly, on 06.12.2013, the applicant approached competent authority for revision of war injury pension. On account of non receipt of revised lump sum compensation, the officer submitted statutory complaint dated 17.12.2016. Later the amount of Rs 8,01,091/- was sanctioned vide letter dated 06.02.2017 and remitted to PCDA (O), Pune. The amount is still held up for payment to applicant for want of undertaking certificate, which the applicant did not forward till date, instead the applicant has filed this O.A. for reimbursing back the amount paid to him earlier and grant of regular war injury pension.

3. Learned counsel for the applicant submitted that the amount with regard to lump sum compensation of war injury was not paid to applicant in time, therefore, he is entitled to be paid regular war injury pension and his regular war injury pension cannot be rejected merely on the ground that he opted for lump sum compensation. The learned counsel further contended that applicant is willing to remit back the amount already granted on the subject. He prayed for grant of regular war injury pension to applicant.

4. On the other hand, learned counsel for the respondents submitted that the applicant had opted for one time lump sum compensation on account of aforesaid disability and accordingly, an amount of Rs 2,31,084/- was paid. He further contended that once the option has been exercised it cannot be reverted back in

accordance with Army Order 17/89. The learned counsel further pleaded that an amount of Rs 8,01,091/- has also been sanctioned in respect of applicant towards arrears of revised compensation and the same is held up with PCDA (O), Pune for want of an undertaking certificate from applicant, which the applicant did not forward till date. He pleaded for dismissal of O.A.

5. Heard learned counsel for both sides and perused the records.

6. It is not disputed that the applicant sustained severe injury while posted in Siachen Glacier under 'Operation Meghdoot' and his right leg was amputated. It is also not disputed that applicant's disability was assessed @ 70% for life attributable to military service vide Disability Compensation Medical Board (DCMB) held at Command Hospital (Eastern Command), Kolkata on 18.11.1997. The applicant opted to receive a lump sum compensation which amounting to Rs 2,31,084/- was paid in the year 1999 and further revised lump sum compensation of Rs 8,01,091/- has been sanctioned and held up for payment for want of an undertaking certificate from the applicant. The applicant failed to forward such undertaking certificate till date.

7. On careful perusal of Army Order 17/89, we have observed that once lump sum compensation in respect of war injury has been accepted by applicant in lieu of disability element, he is not

entitled to further disability element. For convenience sake, relevant extract of Army Order 17/89 is reproduced as under:-

“xxxxxxx. Once a compensation has been paid in lieu of the disability-element, there shall be no further entitlement to the disability-element, for the same disability. Such a disability shall also not qualify for grant of any pensionary benefit or relief, subsequently.”

8. Thus, in view of the above, we are of the view that the applicant is not entitled to war injury pension.
9. The O.A. lacks merit and is hereby **dismissed**.
10. No order as to costs.

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

Dated: January, 2021

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