

**ARMED FORCES TRIBUNAL, CHANDIGARH REGIONAL BENCH
AT CHANDIMANDIR**

...

OA No.1583 of 2014

...

Karan Singh

...Petitioner

Versus

Union of India & others

...Respondent(s)

...

For the petitioner : Mr.Surinder Sheoran, Advocate
For the Respondent(s) : Mr.J S Rana, CGC

...

**CORAM:JUSTICE SURINDER SINGH THAKUR, JUDICIAL MEMBER
LT GEN DS SIDHU (RETD), ADMINISTRATIVE MEMBER**

...

**ORDER
30.06.2015**

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The petitioner herein joined the Army Service on 23.06.1963 and on recommendations of the Release Medical Board, was discharged from Army service on 30.06.1987 after rendering service for 24 years and 08 days with 20% disability, which was declared as attributable to military service. Admittedly, the petitioner is getting disability pension @ 20%, against 20% disability w.e.f. 01.07.1987.

2. The claim made by the petitioner in the present O.A. is for the benefit of rounding-off, admissible under the relevant instructions issued by Government of India, Ministry of Defence from time to time and the latest law on the subject. Thereby, the petitioner has impugned and prayed for quashing of letter dated 05.09.2014 (Annexure A-2), vide which the respondents have rejected his claim for rounding-off benefit of disability pension with a direction to the respondents to release the said benefit to him w.e.f. 01.01.1996 for life.

3. The respondents have contested the O.A. by filing a written statement in which it is contended that before discharge, the petitioner was brought before a duly constituted Release Medical Board(RMB) which assessed his disability as 30% for two years, aggravated by the military service, vide its report dated 28.03.1987. Accordingly, the petitioner was granted disability pension @ 30% from 01.07.1987 to 27.03.1989 vide PPO No.D2622/1987. The disability pension was continued upto 25.07.2006 as per recommendations of the subsequent RSMBs, held from time to time. The next RSMB assessed the disability of the petitioner as 30% for life on 25.11.2003 and, accordingly, disability pension for 30% disability has been continued to the petitioner w.e.f. 25.11.2003 for life vide PPO No.D/RA/6299/2004 dated 18.05.2004.

4. Further stand taken by the respondents is that as per GOI, Ministry of Defence letter dated 31.01.2001, the benefit of rounding-off of disability pension is admissible to those who were invalided out of service on or after 01.01.1996 and those discharged from service on completion of tenure or fulfilling the conditions of enrollment were/ are not entitled to this benefit. In the instant case, since the petitioner was discharged from service on fulfilling the conditions of enrolment under Item III(i) of Army Rule 13(3), he is not entitled to the benefit of rounding off in terms of the aforesaid policy. The claim of the petitioner has rightly been rejected. The petition merits dismissal on this short ground alone.

5. Heard the learned counsel for the parties and perused the record.

6. Ld. Counsel for the petitioner states that the present case is fully covered by the decision of the Apex Court in **Civil Appeal No.418 of 2012**, titled “**Union of India & others vs. Ram Avtar**”, decided on **10.12.2014**. This legal position is not disputed by Mr. J S Rana, CGC.

7. At the outset we may observe that the issue whether the benefit of broad-banding is admissible only to those who were invalided out or also to those who are released in Low Medical Category with disability pension or discharged on completion of term or retired on superannuation with disability pension, was

conclusively settled in judgment dated 04.08.2010 of this Tribunal in **OA No.329 of 2010**, titled **Lt Gen Vijay Oberoi v. Union of India and others**. Accordingly, the benefit of broad-banding is now applicable not only to those who are invalided out but also to disabled, released, discharged, retired and superannuated persons from the date of release from service, since the reason behind broad-banding was to curtail the subjectivity of medical boards, which equally applied to both who were invalided out as well as to those who were discharged, released or retired on completion of tenure with disability pension.

8. We further find that the controversy involved in the present OA is no longer *res integra* and stands concluded by the recent decision dated 10.12.2014 of the Apex Court in **Civil Appeal No.418 of 2012**, titled **Union of India vs. Ram Avtar** and the other connected matters, wherein the question involved was “... *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 contention of the appellant(s) therein was 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 above. On consideration of the matter, the Hon’ble Supreme Court held as under:-

“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.”

9. In the above premises, this OA is allowed. The respondents are directed to grant the benefit of rounding off by broad-banding of disability percentage of

the petitioner from 30% to 50% w.e.f. 01.01.1996. The arrears payable are, however, restricted to a period of three years preceding the date of filing of the present petition i.e. 05.11.2014. The respondents are, accordingly, directed to make payment to the petitioner within a period of three months from the date of receipt of a certified copy of this order, failing which, the respondents shall be liable to pay interest @ 9% per annum from the due date, till the date of actual payment.

10. No order as to costs.

[Justice Surinder Singh Thakur]

[(Lt Gen DS Sidhu (Retd))]

Chandigarh

Dated: 30.06.2015

`bss`

Whether the judgment for reference to be put on internet – Yes/ No