

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI**

O.A.NO. 49 OF 2017

MONDAY, THE 27<sup>th</sup> DAY OF NOVEMBER, 2017/6<sup>th</sup> AGRAHAYANA, 1939

CORAM:

**HON'BLE MR. JUSTICE BABU MATHEW P. JOSEPH, MEMBER (J)**

**HON'BLE VICE ADMIRAL M.P.MURALIDHARAN, AVSM & BAR, NM, MEMBER (A)**

LT. COL. (RETD.) T.P. PONNAMMA,  
(NR-17468 K), AGED 57 YEARS,  
W/O. S. GOPINATHAN PILLAI, TC-48/2763,  
"ASHTAPADI", ANNOOR ABRA-436 A,  
THIRUMALA P.O., THIRUVANANTHAPURAM,  
KERALA – 695 006.

..... APPLICANT

BY ADV. SRI. T.R. JAGADEESH

*Versus*

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY  
MINISTRY OF DEFENCE, SOUTH BLOCK,  
NEW DELHI – 110 011.
2. THE CHIEF OF THE ARMY STAFF,  
INTEGRATED HEADQUARTERS (ARMY),  
SOUTH BLOCK, NEW DELHI – 110 011. .... RESPONDENTS
3. DTE GEN OF MEDICAL SERVICES/MPRS (O),  
ADJUTANT GENERAL BRANCH,  
INTEGRATED HQ OF MOD (ARMY),  
L BLOCK, CHURCH ROAD,  
NEW DELHI – 110 001.
4. PRINCIPAL CONTROLLER OF DEFENCE  
ACCOUNTS (PENSIONS),  
OFFICE OF THE PCDA (P) DRAUPADI GHAT,  
ALLAHABAD – 211 014.

BY ADV. DR. RAJENDRA KUMAR M., SENIOR PANEL COUNSEL

**ORDER**

**VAdm.M.P.Muralidharan, Member (A)**

1. The Original Application has been filed by Lt. Col. T.P. Ponnamma (Retd), NR-17468K, seeking disability element of pension with the benefit of rounding off. The applicant has also sought that Regulation 37(b) of the Pension Regulations for the Army, 2008 be quashed as it denies the benefit of Regulation 94(c) of the Pension Regulations.

2. Sri. T.R. Jagadeesh, the learned counsel for the applicant, submitted that the applicant was commissioned in the Military Nursing Service on 31 December 1981 and superannuated from service on 31 January 2015. The Release Medical Board held prior to discharge of the applicant assessed her to have the

disabilities of Cardiac Arrhythmia with Trifascicular block with intermittent CHB P/DDDR at 40%, Primary Hypertension at 30%, Primary Hypothyroidism at 20% and Dyslipidaemia with composite disability assessed at 70%. However, the disabilities were held as neither attributable to nor aggravated by military service (Annexure A1).

3. The learned counsel further submitted that the disability pension claim of the applicant was rejected by the competent authority holding that the disabilities were neither attributable to nor aggravated by military service (Annexure A2). The learned counsel further submitted that based on the first statutory appeal preferred by the applicant, the disability of Primary Hypothyroidism, was held as aggravated by military service and the applicant was sanctioned disability element of pension at 20% for life with effect from the date of her retirement (Annexure A4). However, the other three disabilities were

considered as neither attributable to nor aggravated by military service. The learned counsel further submitted that the second appeal preferred by the applicant for grant of disability element, for the remaining three disabilities was rejected by the Appellate Committee (Annexure A6).

4. During the course of arguments, the learned counsel also submitted that while the applicant had filed the Original Application for grant of disability element of pension for her remaining three disabilities, the applicant was now restricting her claim to the benefit of rounding off of the disability element which had been granted to her at 20% for life. The learned counsel further submitted that Regulation 37(b) of the Pension Regulations for the Army, 2008 denies the benefit of rounding off provided under Regulation 94(c), to those who are discharged on superannuation. This, the learned counsel submitted, was discriminatory and against the principles enunciated by the Honourable Apex Court. The

learned counsel therefore prayed that the regulation be struck down and the applicant be granted the benefit of broadbanding.

5. The respondents, on the other hand, submitted that the applicant, who had superannuated from service, was assessed by the Release Medical Board to have four disabilities, all of which were held as neither attributable to nor aggravated by military service. However, the first Appellate Committee had granted the applicant disability element at 20% for life for the disability of Primary Hypothyroidism (Annexure A4). The other three disabilities of the applicant were held as neither attributable to nor aggravated by military service by the first as well as the second Appellate Committees (Annexures A4, A6). The respondents further submitted that as the applicant had superannuated from service and was not invalided out, she was not eligible for the benefit of broadbanding.

6. Heard rival submissions and perused records.

7. It is not disputed that the applicant was granted disability element of pension at 20% for life from the date of her retirement, by the first Appellate Committee (Annexure A4). Since the applicant has now restricted her claim to the benefit of broadbanding, we are only examining her eligibility for grant of the same.

8. The stand taken by the respondents is that as the applicant had retired from service on superannuation and was not invalidated out, she was not entitled to the benefit of rounding off/broadbanding. Since the applicant superannuated from service on 31 January 2015, Pension Regulations for the Army, 2008 would apply. Therefore, we also need to look at the impact of Regulation 37(b) of the said Regulations which denies the benefit of rounding off to personnel who retired on attaining the age of

superannuation. The issue is no more res integra as this Tribunal in **O.A.No.93 of 2016 (Jadhav Maruti Bhau v. Union of India & Others)** had examined the issue and struck down Regulation 37(b) in keeping with the principles enunciated by the Honourable Apex Court in **Union of India vs. Ram Avtar, Civil Appeal No.418 of 2012**. In our view therefore, the applicant is eligible for the benefit of rounding off of disability element of pension granted to her.

9. In view of the foregoing, the Original Application is disposed of declaring that the applicant is entitled to the benefit of rounding off of disability element of pension granted to her, in accordance with law, with effect from 01 February 2015. The respondents are directed to pay the arrears on rounding off of disability element of pension to the applicant, within a period of four months from the date of receipt of a copy of this order, failing which the unpaid amount will carry simple

interest at the rate of 8% per annum.

10. There will be no order as to costs.

11. Issue free copy to the parties.

Sd/-  
**VICE ADMIRAL M.P. MURALIDHARAN,**  
MEMBER (A)

Sd/-  
**JUSTICE BABU MATHEW P. JOSEPH,**  
MEMBER (J)

krs.

// True Copy //

Private Secretary