

SEE RULE 102 (1)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

OA No 01/2019

DATED : THIS 06th DAY OF FEBRUARY, 2020

CORAM

HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (JUDICIAL)
HON'BLE VICE ADMIRAL P. MURUGESAN, MEMBER (ADMINISTRATIVE)

APPLICANT (S) : EX NK DEBANANDA MALLICK

Versus

RESPONDENT(S) : Union of India & Others

Counsel for the Applicant(s) : Mr. Aniruddha Datta, Ld. Advocate

Counsel for the Respondent(s) : Mrs. Hema Mukherjee

ORDER

1. Learned counsel for the respondents has filed a copy of the PPO dated 13.02.2009 in the Court today and the same is taken on record.
2. The representation of the applicant dated 16.07.2018 (Annexure A-4) for according the benefit of rounding off of his disability element of disability pension has not been considered by the respondents so far which is wrong and illegal in view of the decision of the Apex Court rendered in **Civil Appeal No. 418 of 2012 (Union of India and others Vs. Ram Avtar)** decided on 10.12.2014.
3. Heard.
4. With the consent of the parties, the matter is taken on board for final disposal.
5. The learned counsel for the applicant argued that the applicant is entitled to the claimed benefit on the basis of the judgment of the Apex Court in **Ram Avtar's case (supra)**.
6. Confronted with the above facts, learned counsel for the respondents does not dispute the legal position.
7. Since the point in issue is no longer *res integra*, therefore, we do not insist upon the respondents for formal reply as it will not improve their case and it shall be a sheer wastage of public money and time.

8. In the present case, the applicant is already getting disability element of pension w.e.f. 01.08.2008 for life @ 30% disability as is apparent from the PPO dated 13.02.2009, therefore, he is entitled for the benefit of rounding off by computing his disability to the extent of 50% as against 30% w.e.f. 01.08.1996. Accordingly, the petition is allowed on the same terms as in Ram Avtar's case (supra).

9. On verification of the aforesaid factual facts from their record, the respondents shall calculate the arrears and release it to the applicant, after getting the requisite government sanction followed by PPO within a period of four months from the date of receipt of certified copy of this order by the learned counsel for the respondents, failing which arrears shall carry interest @ 8% p.a. from the date of this order.

9. Since the applicant has come to the Tribunal/Court after a lapse of about eight years after his discharge from service so the arrears are restricted to three years prior to the date of filing of this Original Application i.e. 07.01.2019.

10. No order as to costs.

(P. MURUGESAN)
MEMBER (A)

'dp'/06.02.2020

(MOHAMMAD TAHIR)
MEMBER (J)