

Form No 4  
[(SEE RULE 11(1))]  
IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA  
**ORDER SHEET**

**APPLICATION No. O.A. No. 42/2017**

APPLICANT (S)	EX NK SUNIL KUMAR
RESPONDENT (S)	Union of India & Others
Legal Practitioner of applicant	Legal Practitioner for Respondent (s)
Miss Manika Roy	Mr. B. K. Das

**ORDERS OF THE TRIBUNAL**

Order Serial Number :



Dated : 03-05-2017

1. The applicant, who had taken premature retirement on 30.11.2011, has filed this application claiming the benefit of rounding off the disability element of pension from 30 to 50 per cent with arrears and interest thereon.
2. Heard Miss Manika Roy, learned counsel appearing for the applicant and also Mr. Anup Kr. Biswas, learned counsel assisted by the OIC, Legal Cell, appearing for the respondents.
3. The learned counsel for the applicant referring to the PPO issued by the competent authority submits that since the applicant is receiving disability element of pension at the rate of 30 per cent, he is entitled to the benefit of rounding off the same to 50 per cent in terms of the order passed by the Hon'ble Supreme Court on 10.12.2014 in Civil Appeal No. 418 of 2012 (Union of India & Ors. Vs. Ram Avatar). The learned counsel, therefore, submits that a direction needs to be issued to the respondents to grant benefit of rounding off of the disability element of pension from 30 to 50 per cent with arrears and interest thereon.
4. The learned counsel appearing for the respondents, on the other hand, referring to the policy decision of Govt. of India dated 31.01.2001, has submitted that since the applicant has not been invalidated out from service, he is not entitled to the benefit of rounding off. The learned counsel has further submitted that the said policy decision relates to

grant of rounding off benefit to the persons who have been invalidated out from service.

5. We have considered the submissions advanced by the learned counsel for the parties.

6. It appears from the PPO issued by the competent authority that the applicant has been granted disability element of pension at the rate of 30 per cent. The applicant was released from service on his own request. The issue relating to grant of the benefit of rounding off the disability element of pension is no longer *res integra* in view of the order dated 10.12.2014 passed by the Hon'ble Supreme Court in *Ram Avatar (supra)* and hence the persons who have been released from service other than invalidated out from service are also entitled to the benefit of rounding off of the disability element of pension.

7. In view of the above, we allow the present O.A. and direct the respondents to grant benefit of rounding off of the disability element of pension to the applicant from 30 to 50 per cent with arrears for a period of three years preceding the date of filing of the O.A. No. 42/2017, (O.A. has been filed on 23.03.2017). The arrear shall carry interest at the rate of 09 per cent per annum from the said date till the date of payment. Arrears along with interest shall be paid within a period of six months from the date of receipt of the copy of this order.

8. The O.A. accordingly stands allowed.

9. The learned counsel appearing for the respondents has made an oral prayer to grant leave to appeal to Hon'ble Supreme Court. Since this order does not involve any question of law having general public importance, the prayer for leave to appeal to the Hon'ble Supreme Court stands rejected.

(Lt Gen Gautam Moorthy)  
Member(Administrative)  
pkb

(Justice B.P. Katakey)  
Member (Judicial)