

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

APPLICATION No. O.A. No. 125/2016

APPLICANT (S)	EX RECT RUDRE SWAR NANDA
RESPONDENT (S)	Union of India & Others
Legal Practitioner of applicant	Legal Practitioner for Respondent (s)
Mr. Subhash Ch. Basu	Mr. Anup Kr. Biswas

ORDERS OF THE TRIBUNAL

Order Serial Number : 2

Dated : 05-05-2017

1. Heard Mr. Subhash Ch. Basu, learned counsel appearing for the applicant and also Mr. Anup Kr. Biswas, learned counsel assisted by the OIC, Legal Cell, appearing for the respondents.

2. The applicant, who has been granted disability pension at the rate of 20 per cent, pursuant to the order dated 29.08.2008 passed by the Hon'ble Orissa High Court in WP(C) No. 7478/2007, has filed this application praying for a direction to grant the benefit of rounding off the disability pension from 20 to 50 per cent with arrears and interest thereon.

3. The learned counsel appearing for the applicant referring to the averments made in the O.A. as well as in the annexures appended thereto has submitted that since the concerned authority has issued the PPO granting of disability pension at the rate of 20 per cent for life, pursuant to the order 29.08.2008 passed by the Hon'ble Orissa High Court in the aforesaid writ petition, the applicant is entitled to the benefit of rounding off in view of the order dated 10.12.2014 passed in Civil Appeal No. 418 of 2012 (Union of India & Ors. Vs. Ram Avatar) and hence a direction needs to be issued to the respondents authority to grant the said benefit with arrears and interest thereon. Referring to the communication dated 11.02.2016 issued by the Senior Accounts Officer (P) to the OIC, ASC Records it has been submitted by the learned

counsel for the applicant that the said authority ought not to have issued the said communication expressing inability to notify PPO, when the applicant has already been granted the disability pension for life pursuant to the order passed by the Hon'ble Orissa High Court.

4. The learned counsel appearing for the respondents on the other hand referring to the averments made in the counter affidavit and also to the annexures appended thereto has submitted that the PPO issued to the applicant granting 20 per cent disability pension has not been withdrawn as on date. It has also been submitted that payment of disability pension at the rate of 20 per cent pursuant to the aforesaid PPO issued has not been stopped by the respondents authority. It is also submitted that communication dated 10.02.2016 is an internal communication in reference to the communication dated 13.01.2016.

5. It appears from the pleadings of the parties and also the annexures appended thereto that the applicant was initially not granted any disability pension for which he approached the Hon'ble Orissa High Court in WP(C) No. 7478/2007. The said writ petition was allowed vide order dated 29.08.2008 directing payment of disability pension to the applicant at the rate of 20 per cent for life with both arrears and current. Based on the said order PPO was issued in favour of the applicant for payment of disability pension at the rate of 20 per cent.

6. The applicant has filed this application for grant of rounding off benefit. As noticed above, the respondents have not disputed the issuance of the PPO for the purpose of payment of disability pension at the rate of 20 per cent which according to the respondents themselves has not been withdrawn or suspended.

7. The issue regarding grant of rounding off benefit is no longer res integra in view of the decision in Ram Avatar (Supra) wherein the Hon'ble Supreme Court has directed

payment of the benefit of rounding off to the armed forces personnel who have not been invalidated out from service.

8. That being the position, we are of the considered opinion that the applicant is entitled to the benefit of rounding off of disability pension from 20 to 50 per cent. The respondents are, therefore, directed to grant the rounding off benefit with arrears for a period of three years preceding to the date of filing of the O.A., (O.A. has been filed on 09.09.2016). 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)

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