

**IN THE ARMED FORCED TRIBUNAL, REGIONAL BENCH,
GUWAHATI**

O.A. 18/2017

PRESENT

**HON`BLE MR. JUSTICE B.P.KATAKEY, MEMBER (J)
HON`BLE LT GEN GAUTAM MOORTHY, MEMBER (A)**

**JC-549378y Sub & Hony Capt
HB Dilthu Anal
Vill-Dangkhu
PO-Chakpikarong
Dist-Chandel, Manipur
PIN-795102**

..... **Applicant.**
By legal practitioners for
Applicant.
**Mrs Rita Devi,
Mr. AR Tahbildar,**

-Versus-

- 1. Union of India,**
Represented by the Secretary
Ministry of Defence
Sena Bhawan, New Delhi-1
- 2. Records The Assam Regiment**
PIN-900332
C/o-99 APO
- 3. Additional Directorate General,**
Personnel Services, PS-4(d),
Adjutant General's Branch
IHQ of MoD (army), DHQ,PO-New Delhi
- 4. The Principal Controller of Defence**
Accounts (Pension),Allahabad'
Pin-211014
Uttar Pradesh

..... **Respondents**
By legal practitioners for
Respondents.
Brig N. Deka (Retd), CGSC.

Date of hearing : 20.04.2017
Date of order : 20.04.2017

ORDER

(Per BP Katakey, Member (J))

1. The applicant, who was discharged from service on completion of the term of engagement on 01.01.2013, has filed this application challenging the order dated 18.03.2017, whereby and whereunder the claim of the applicant for granting the benefit of rounding off the disability element of the pension has been rejected by the respondent authority on the ground that the applicant having been discharged from service on completion of the term of engagement is not entitled to the said benefit in terms of the Govt of India policy decision dated 31.01.2001.
2. Learned counsel appearing for the applicant submits that since the Hon'ble Supreme Court vide order dated 10.12.2014 passed in Civil Appeal No. 418 of 2012 (*Union of India Vs Ram Avatar*), has held that the personnel who have not been invalidated out from service are also entitled to the benefit of rounding off, the impugned order passed by the respondent authorities denying the said benefit, needs to be interfered with and a direction needs to be issued to the respondent authorities to grant the said benefit with arrear and interest thereon.
3. Learned counsel appearing for the respondents on the other hand, submits that since the policy decision dated 31.01.2001 relating to the grant of benefit of rounding off disability element of pension is available to the personnel who have invalidated out from service, the applicant is not entitled to the said benefit, he having been discharged from service on completion of the term of engagement.
4. The submissions so advanced by the learned counsel for the parties have received our due consideration.
5. It is not in dispute that the applicant was discharged from service on 01.01.2013 on completion of term of engagement and he has been receiving the disability element of pension @ 30% for life, as it is evident from the PPO dated 04.03.2013. The issue relating to the grant of rounding off benefit of the disability element of pension is no longer *res-integra* in view of the order passed by Hon'ble Supreme Court in *Ram Avatar (Supra)*, whereby the Hon'ble Supreme Court has directed the respondents to grant the said benefit to the personnel who have not been invalidated out from service. The

Govt of India has also decided to implement the aforesaid direction of the Hon'ble Supreme Court to grant the benefit of rounding off the disability element of pension of the Armed Force personnel, who have retired or discharged on completion of the term of engagement with disability aggravated by or attributable to military service from the date mentioned in the respective Court orders, which has been communicated by the Under Secretary to Govt of India, Ministry of Defence, Department of Ex-Servicemen Welfare D(Pension/Legal) on 18.04.2016 to the Chiefs of all three services.

6. That being the position, we are of the considered opinion that the applicant is entitled to the benefit of rounding off the disability element of pension. Hence the impugned order dated 18.03.2017 is set aside.
7. Respondents are directed to grant the benefit of rounding off the disability element of pension to the applicant from 30% to 50% with arrear for a period of 03 years preceeding the date of filing the representation before the respondent authority on 03.03.2017. The arrear shall carry interest @ 9% per annum from the said date till the date of payment. The arrear along with interest shall be paid to the applicant within a period of 05 months from the date of receipt of a copy of this order.
8. OA is accordingly allowed to the extent indicated above.
9. No costs.
10. Brig N. Deka (Retd) learned CGSC has orally prayed for leave to appeal to the Hon'ble Supreme Court which, however, has been rejected as this order does not involve any point of law of general public importance.

MEMBER (A)

MEMBER (J)

