

IN THE ARMED FORCES TRIBUNAL

REGIONAL BENCH, GUWAHATI

OA- 51/2016.

PRESENT

**HON`BLE MR. JUSTICE B.P.KATAKEY,
OFFICIATING CHAIRPERSON**

HON`BLE LT GEN S.K.SINGH, MEMBER (A)

No.54359170Y Ex Nk (TS)

Franchies Khaisavung Zou
Village Simveng
PO Chaurchandpur
Dist.Churchandpur(Manipur)
PIN 795128.

..... Applicant.

By legal practitioners for
Applicant.

Mr. A.R.Tahbildar

-VERSUS-

1. Union of India,

Represented by the Secretary,
Govt. of India, Ministry of Defence
Sena Bhawan, New Delhi – 110011.

2. Records The Mechanized Infantry Regiment

PIN (ARMY) -900476
C/O-56 APO.

3. Additional Directorate General

Personnel Services, PS -4(d)
Adjutant General's Branch
IHQ of MOD (Army), DHQ, PO New Delhi

4. Principal Controller of Defence Accounts (Pension)

Allahabad PIN 211014
Uttar Pradesh

..... Respondents..

By Legal Practitioner for the
Respondents
Brig N.Deka, CGSC

Date of Hearing : 09.11.2016

Date of Order : 09.11.2016

ORDER

(Justice B.P.Katakey, Officiating Chairperson)

Heard Mr.A.R.Tahbildar, learned counsel appearing for the applicant and Brig N.Deka (Retd) learned CGSC assisted by Col Anand, OIC,AFT Legal cell appearing for the respondents.

[2] The applicant, who has been discharged from service on 31.10.2004 on completion of his tenure of engagement, has filed this OA claiming the benefit of board banding disability pension, contenting ,*inter alia*, that though the applicant is entitled to the said benefit, in view of the judgment of the Hon'ble Supreme Court (Union of India Vs Ramavatar decided on 10.12.2014), the same has been denied to him vide order dated 23.05.2016 on the ground that the applicant having not been invalidated out from service he is not entitled to the same.

[3] The learned counsel on the basis of the decision of the Hon'ble Supreme Court in Ramavatar(supra) has submitted that the impugned order dated 23.05.2016 needs to be set aside and a direction may be issued to the respondent authorities to grant the benefit of broad banding of the disability element of pension.

[4] Brig N.Deka(Retd), learned CGSC submits that the Govt. of India decision dated 31.01.2001 being for grant of benefit of board banding to the personnel who were invalidated out from service, the applicant is not entitled to the said benefit, he having not been invalidated out from service.

[5] The issue relating to grant of benefit of board banding the disability element of pension to the personnel who have been discharged on completion of the tenure is no longer *res integra*, in view of the judgment passed by the Hon'ble Supreme Court in Ramavatar (supra).

[6] The claim of the applicant for grant of the benefit of broad banding disability element of pension has been rejected vide order dated 23.05.2016 only on the ground that he is not entitled to the same, he having not been invalidated out from service. The Hon'ble Supreme Court in Ramavatar (supra) having held that personnel who are discharged from service on completion of tenure, apart from premature retiree, are also entitled to the benefit of Govt. of India policy decision dated 31.01.2001, the applicant cannot be denied the said benefit. Hence, the impugned order dated 23.05.2016 is hereby set aside.

[7] The applicant in view of the aforesaid decision is entitled to the benefit of broad banding of disability element of pension.

[8] In view of the above, respondents are directed to grant the benefit of board banding of the disability element of pension to the applicant from 30% to 50% with arrear for a period of 03 years preceding the date of filing of the representation i.e. 07.05.2016. The arrear would carry interest @ 9% per annum from the said date till the date of payment. The arrear with interest shall be paid within a period of four months from the date of receipt of this order.

[9] The OA is accordingly allowed. No costs.

[10] Brig N.Deka(Retd), learned CGSC appearing for the respondents has made an oral prayer to grant leave to appeal to the Hon'ble Supreme Court. Since the 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.

MEMBER (A)

OFFICIATING CHAIRPERSON

