

Notes of the Registry	Orders of the Tribunal
	<p style="text-align: center;">IN THE ARMED FORCES TRIBUNAL REGIONAL BENCH, GUWAHATI</p> <p style="text-align: center;"><u>MA-14 of 2018</u> (in OA 39 of 2017)</p> <p>UOI & Ors Represented by Maj N Bobotombi</p> <p style="text-align: right;">..... Applicant By legal practitioners for Applicant.</p> <p style="text-align: right;">Mr. N. Baruah, CGSC</p> <p style="text-align: center;">-Versus-</p> <p>Ex- Hav Hitesh Ch Bezbarua</p> <p style="text-align: right;">..... Respondents By legal practitioner for Respondents. Mrs Rita Devi Mr. AR Tahbildar</p> <p style="text-align: center;"><u>PRESENT</u></p> <p style="text-align: center;">HON`BLE DR. (MRS) JUSTICE INDIRA SHAH, MEMBER (J) HON`BLE LT GEN GAUTAM MOORTHY, MEMBER (A)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>03.08.2018</u></p> <p>1. This MA has been filed in connection with the order passed by this Bench on 11.05.2018, in OA-39 of 2017 whereby the applicant was entitled to disability pension @50% rounded off to 75% with effect from the date of his retirement.</p> <p>2. Heard learned counsel for both sides.</p> <p>3. Learned counsel for the respondents has submitted that the petitioner is in receipt of service pension and as such he is entitled to disability element of disability pension and not disability pension. The learned counsel has further submitted that there is a typographical error in the order inasmuch as the words "<i>disability pension</i>" have been used which should have been typed as "<i>disability element of disability pension</i>" since the applicant is in receipt of service pension.</p>

4. In this connection, Regulation 179 of the Pension Regulations for the Army, Part-I, 1961 is relevant and reproduced as under –

*“An individual retired/discharged on completion of tenure or on completion of service limits or on completion of terms of engagement or on attaining the age of 50 years (irrespective of their period of engagement), if found suffering from a disability attributable to or aggravated by military service and recorded by Service Medical Authorities, shall be deemed to have been invalided out of service and **shall be granted disability pension from the date of retirement**, if the accepted degree of disability is 20 percent or more and service element if the degree of disability is less than 20 per cent. **The service pension/service gratuity, if already sanctioned and paid, shall be adjusted against the disability pension/service element, as the case may be.**”*

5. Thus there occurs no error in our judgment dated 11.05.2018 passed in OA 39 of 2017 and it is up to the paying authorities to calculate the disability pension to be granted to the applicant keeping in mind the service pension he is already receiving.

6. MA is disposed of accordingly.

MEMBER (A)

MEMBER (J)

Kalita