

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

OA- 37/2017

PRESENT

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

No. 4351867 Ex Sep Taulchinthong
Vill- P Kamdeo veng
P.O.- Churachandpur
Dist-Churachandpur (Manipur)
PIN-795128

..... Applicant.

By legal practitioners for
Applicant.

**Mrs. Rita Devi
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. Defence Security Corps Records**
PIN-901277
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
Mr. N. Baruah, CGSC

Date of Hearing : 27.06.2017

Date of Order : 27.06.2017

ORDER

(Per B.P.Katakey, Member (J))

Heard Mr. AR Tahbildar, learned counsel appearing for the applicant and Mr. N. Baruah, learned CGSC assisted by Akash Vashisht, OIC Legal Cell, 51 Sub Area appearing for the respondents.

[2] The applicant, who had been discharged from service on 01.09.2015 on completion of his tenure of engagement, has filed this OA claiming the benefit of rounding off disability element of 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 in *Union of India Vs Ramavatar in Civil Appeal No. 418/2012* decided on 10.12.2014, the same has been denied to him vide order dated 28.03.2017 on the ground that the applicant having not been invalidated out from service he is not entitled to the same.

[3] The learned counsel appearing for the applicant has submitted that the authority ought not to have passed the impugned order dated 28.03.2017 rejecting such prayer on the ground that the applicant is not entitled to the said benefit as he was not invalidated out from service in view of the decision of the Hon'ble Supreme Court in *Ramavatar (Supra)*. Learned counsel, therefore, submits that while setting aside the impugned order dated 28.03.2017, directions may be issued to the respondent authorities to grant the benefit of rounding off the disability element of pension from 30% to 50% w.e.f 01.09.2015 with interest thereon.

[4] Mr. N. Baruah, learned CGSC on the other hand submits that the Govt. of India decision dated 31.01.2001 being for grant of benefit of broad 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 and hence the impugned order has rightly been passed by the respondent authorities.

[5] We have heard the submissions advanced by the learned counsel appearing for the parties and perused the pleadings.

[6] The issue relating to grant of benefit of rounding off 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 28.03.2017 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 28.03.2017 is hereby set aside.

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

[8] In view of the above, respondents are directed to grant the benefit of rounding off disability element of pension to the applicant from 30% to 50% with arrear w.e.f. 01.09.2015. The arrear would carry interest @ 9% per annum from the said date till the date of payment. The arrear with interest shall be paid to the applicant within a period of six months from the date of receipt of this order.

[9] The OA is accordingly allowed.

[10] No costs.

[11] Mr. N Baruah, learned CGSC appearing for the respondents has made an oral prayer to grant leave to appeal to the Hon'ble Supreme Court under Section 31 of the AFT Act, 2007. 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)

MEMBER (J)

Kalita