

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

O.A. 22/2017

PRESENT

**HON`BLE MR. JUSTICE B.P.KATAKEY, MEMBER (J)
HON`BLE VICE ADMIRAL MP MURALIDHARAN, MEMBER (A)**

No. 15358036P Hav (ACP-1)
Longjam Sanajaoa Singh
Vill-Koirengei
PO-Mantripukhri
Dist-Imphal East, Manipur
PIN-795002

..... 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. The Records Signals
PIN-908770
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. The Principal Controller of Defence
Accounts (Pension),Allahabad'
Pin-211014
Uttar Pradesh

..... Respondents
By legal practitioners for
Respondents.
Mr. N. Baruah, CGSC.

Date of hearing : 24.05.2017

Date of order : 24.05.2017

ORDER

(Per BP Katakey, Member (J))

1. The applicant has filed this application challenging the order dated 03.04.2017 passed by the respondent authorities and also claiming the benefit of broadbanding of disability element of pension. Learned counsel for the applicant submitted that in view of the order dated 10.12.2014 passed by the Hon'ble Supreme Court in **Civil Appeal No. 418 of 2012 (Union of India Vs. Ram Avatar)**, the impugned order may not be sustainable in law and hence directions may be issued to the respondents to grant the benefit of braodbanding of disability element of pension from 20% to 50% to the applicant with arrear for a period of three years preceeding 06.03.2017 i.e. the date of filing representation before the respondent authorities and interest thereon.
2. Mr. N. Baruah, learned CGSC, assisted by Lt. Akash Bashisht, OIC Legal Cell, 51 Sub Area appearing for the respondents on the other hand referring to the policy decision of Government of India dated 31.01.2001 has submitted that since as per the said policy decision, benefit of broadbanding can be granted to the personnel who are invalidated out from service, the applicant is not entitled to the relief claimed in the Original Application as he had been discharged from service on completion of the term of enrolment.
3. We have heard the submissions advanced by the learned counsel appearing for the parties and perused the pleadings.
4. The issue relating to grant of benefit of broadbanding of disability element is no longer *res-integra* in view of the aforesaid order passed by the Hon'ble Supreme Court in **Ram Avatar (Supra)**. The applicant though was discharged from service on fulfillment of the conditions of enrolment, he is, therefore, entitled to the benefit of rounding off the disability element of the pension. The applicant, as it appears from the PPO attached to the OA, is receiving the disability element of the pension @ 20%. That being the position, the applicant is entitled to the rounding off the said disability element from 20% to 50%. That apart, in view of our order dated 22.05.2017 passed in **OA - 07 of 2017**, the respondents cannot deny the benefit of broadbanding to the applicant on the ground of Rule 53(b) of the Pension Regulations for Army, 2008.

5. In view of the above, the respondents are directed to broadband the disability element of the pension of the applicant from 20% to 50% with arrear for a period of 03 years preceeding the date of filing the representation before the respondent authorities i.e. 06.03.2017. 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 a copy of this order.
6. OA is accordingly allowed as indicated above.
7. Mr. N. Baruah, learned CGSC appearing for the respondents made an oral prayer for grant of 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 stands rejected.
8. Order dasti.

MEMBER (A)

MEMBER (J)

Kalita