

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

OA 34 /2016

P R E S E N T

**HON'BLE MR. JUSTICE B.P. KATAKEY, OFFICIATING CHAIRPERSON
HON'BLE Lt GEN VK AHLUWALIA, MEMBER (A)**

No.4355602N NK (TS)
Thangkhan Hau Zou
Village-K Kamdouveng
P.O.-Churachandpur
Dist-Churachandpur (Manipur)
Pin-795128

..... **Applicant**

Legal practitioner for the applicant

Mr.A.R.Tahbildar

- Versus -

1. Union of India
Represented by the Secretary
Ministry of Defence,
Sena Bhawan, New Delhi-1
2. Records The Assam Regiment
PIN (ARMY)-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**

Legal practitioner for the
Respondents

Brig (Retd.) N.Deka, CGSC

Date of Hearing : 20.09.2016

Date of Judgment & Order : 20.09.2016

JUDGMENT & ORDER
(ORAL)

(Per B.P. Katakey, J)

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

2. The applicant has filed this application challenging the order dated 19.06.2016 passed by the respondent authorities rejecting the claim for the benefit of rounding off his disability element of the pension from 20% to 50% on the ground that since the applicant was discharged from service on completion of the term of engagement and not invalidated out of the service, he is not entitled to the benefit of rounding off.

3. The learned counsel appearing for the applicant submits that the issue relating to the grant of benefit of rounding off to a person other than the person who has been invalidated out of the service is no longer res-integra in view of the Judgment passed by the Hon'ble Supreme Court in the case of *Union of India Vs. Ram Avtar* decided on 10.12.2014 and hence the impugned order cannot be sustained in law. Learned counsel referring to the Notification dated 18.04.2016 issued by the Ministry of Defence, Department of Ex-Servicemen Welfare D (Pension/Legal) has submitted that since the Government has taken a decision to grant the benefit of rounding off the disability element of pension to a person other than the person invalidated out from service, a direction may be issued to the respondent authorities to grant the benefit of rounding off to the applicant from 20% to 50% with arrear for a period of 03 years preceding the date of filing of the OA and interest thereon.

4. Brig (Retired) N.Deka, learned CGSC, appearing for the respondents has submitted that pursuant to the policy decision dated 31.03.2001, the applicant was not entitled to benefit of rounding off as he has not been invalidated out of service and hence the impugned order does not require any interference.

5. The applicant was discharged from service on 01.11.1999 on completion of his tenure of engagement. The benefit of rounding off has not been granted to him and has been rejected by impugned order dated 19.06.2016 on the ground that the applicant being not invalidated out from service, he is not entitled for the same. The issue relating to grant of benefit of rounding off of the disability element is no longer res-integra in view of the order passed by the Hon'ble Supreme Court in the case of Ram Avtar (Supra) wherein it has been held that irrespective of the nature of discharge, the personnel would be entitled to the benefit of rounding off if he is getting the disability pension. The Govt. of India, Ministry of Defence has also issued a Notification dated 18.04.2016 intimating the Chiefs of all the three services for the grant of the said benefit.
6. Having regard to the aforesaid position, we set aside the order dated 19.06.2016 and direct the respondents to grant the benefit of rounding off the disability elements of the pension from 20% -50% to the applicant, arrear of which shall be paid for a period of 03 years preceding the date of filing of the Original Application (OA filed on 19.09.2016). The arrear would carry an interest @ 9% per annum from the aforesaid date till the date of payment.
7. Respondents shall pay the arrears with interest within a period 03 months from the date of receipt of the order.
8. The OA is accordingly allowed.
9. No costs.
10. Brig (Retd.) N.Deka, learned CGSC, has orally made a prayer for leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007 before the Hon'ble Supreme Court which, however, has been rejected as the order does not involve any question of law of general public importance.

MEMBER (A)

OFFICIATING CHAIRPERSON

