

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

78.

RA 13/2024 IN OA 2037/2018

Ex Sigmn Surender Singh Rathore	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Praveen Kumar, Advocate
For Respondents	:	Mr. Anil Gautam, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
02.04.2024

RA 13/2024

By way of this application the applicant seeks review of the order dated 12.02.2024 dismissing the OA 2037/2018.

2. It is the contention of learned counsel for the applicant that though his prayer in the OA was for grant of disability pension, during the course of arguments the Court did not accept his prayer for disability pension. It is his submission that he had made an alternative prayer for grant of invalid pension which was accepted by the Court and the OA was thus allowed as is evident from the extract of the cause list, a copy of which is available on the record of this RA as Annexure A-2 (colly). He further submits that this is an error apparent on the face of the record and in view thereof the RA may be allowed granting invalid pension to the

applicant in terms of Regulation 197 of the Army Pension Regulation, 1961, as orally submitted by him.

3. We have gone through the records and are of the view that the applicant did make an alternate prayer at the time of oral submissions that, if not disability pension, he may be granted invalid pension. This submission, though made, but inadvertently not considered, the OA was dismissed. Therefore, we are of the considered view that this is an error apparent on the face of the record.

4. In view of the above, we allow the RA and consequently the OA also stands allowed with directions to the respondents that the applicant shall be entitled to invalid pension with effect from the date of invalidation from the Army. The respondents are directed to calculate, sanction and issue necessary PPO to the applicant within a period of three months from the date of receipt of a copy of this order failing which it shall carry interest @ 6% p.a. However, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/discharge, whichever is lesser, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648].

5. The order dated 12.02.2024 passed in the OA is thus substituted by the order passed today.
6. The RA is thus allowed.
7. In view of the fact that now the OA has been allowed, learned counsel for the applicant prays for withdrawal of his oral prayer for leave to appeal.
8. Admitting the submission of learned counsel, the oral prayer for leave to appeal and the order passed on the same on 12.02.2024 is withdrawn.
9. A copy of this order be provided ***DASTI*** to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C. P. MOHANTY]
MEMBER (A)

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RA 13/2024