

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

41.

RA 5/2025 IN OA 365/2022

Ex Hav Binod Kumar Yadav Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Shakti Chand Jaidwal, Advocate
For Respondents : Mr. Niranjana Das, Advocate

CORAM

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

ORDER
20.03.2025

RA 5/2025

This application has been filed seeking review and modification of an order passed by this Tribunal in OA No.365/2022 on 06.01.2025 praying for payment of arrears from the date of cause of action and not from three years prior to the filing of the OA No.365/2022.

2. The applicant was invalided out of service on 03.03.2017 and when his claim for grant of disability pension was rejected by the First Appellate Authority, the applicant submitted 2nd Appeal for grant of disability pension which was also rejected by the Second Appellate Authority only on 06.10.2021. After rejection of the same, within a period of six months, the applicant invoked the jurisdiction of this Tribunal by filing of OA No.365/2022 on 22.02.2022,

i.e., within six months from the date of rejection of the 2nd Appeal. Copy of the order passed in 2nd Appellate Authority on 06.10.2021 is filed as Annexure RA-2.

3. While hearing this application on merit by the order in question, review of which is sought for, even though the applicant has been granted the benefit of disability element of pension as prayed for by him, however, arrears have been restricted to three years prior to filing of OA No.365/2022 in view of the law laid down by the Hon'ble Supreme Court in the case of Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648]. It is the case of the applicant, now before us, in this application that there is an error apparent on the face of the records in the matter of restricting of arrears. It is the contention of the applicant that the cause of action for claiming disability element of pension accrues to the applicant when he was discharged from service on being invalided out on 03.03.2017. The PPO granting him pension was issued by the PCDA (P), Allahabad on 24.05.2019 wherein he was only granted Ordinary Pension. The applicant preferred 1st Appeal against the said order denying him disability pension. After the 1st appeal preferred on 03.05.2019 which was rejected by the competent authority on 21.07.2020 against the same, the

applicant preferred a 2nd Appeal on 19.11.2020 which was rejected by the impugned order on 06.10.2021 and within a period of six months of rejection of the 2nd Appeal, the OA No.365/2022 was filed on 24.02.2022, i.e., within a period of six months from the date of rejection of the 2nd Appeal.

4. Accordingly, from the fact that has come on record it is clear that the applicant had been diligently prosecuting his matter, immediately after his claim was rejected and the PPO was issued to him in 2019, i.e., 24.05.2019, he preferred the 1st Appeal and 2nd Appeal which was finally decided on 06.10.2021 and within the period stipulated under Section 22, he had invoked the jurisdiction of the Tribunal by filing the OA No.365/2022. It is, therefore, clear that the applicant had invoked the jurisdiction of this Tribunal within a reasonable period of time and there is no reason for denying him the benefit of arrears of salary from the date he was invalided out from service and the law laid down in the case of *Tarsem Singh* (supra) will not apply as this is not a case when there is an inordinate delay in raising the claim and, therefore, payment of arrears is to be restricted to three years.

5. Finding there to be an error apparent on the face of the record, this application is allowed. Order dated 06.01.2025 passed in OA No.365/2022 is modified to the extent that the arrears payable to the applicant shall be paid from the date he was invalided out from service, i.e., 03.03.2017 and not from the date three years prior to the filing of the OA No.365/2022.

6. This order shall form part of the order dated 06.01.2025 in OA No.365/2022.

7. In view of the aforesaid, the RA stands disposed of.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

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

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RA 5/2025