

O.A. No. 156/2010

21.10.2010

Present: Sh. Siya Ram, Advocate, counsel for the applicant.

Ms. Jagrati Singh, Advocate, proxy counsel for Sh. A.K. Bhardwaj,
Advocate, counsel for the respondents.

Applicant is a Lt. Colonel who retired voluntarily from service on 01.12.2003. He has done more than 20 years service and he is already getting service pension but he has been denied disability pension. At the time of voluntarily release, he was said to have been suffering from disability to the extent of 40% for life but being an officer, he was not given disability pension as per Rule 50 of the Pensions Regulations for the Army. But now the Government has ameliorated the service conditions by issuing the Notification dated 29.09.2009 and removed the cap of denying the disability pension on account of voluntarily retirement. Rule 53 also says that if an officer who retired on completion of tenure or on completion of terms of engagement or on attaining the age of 50 years, if found suffering from a disability attributable to or aggravated by Military Service and recorded by service Medical Authorities, shall be deemed to have been invalidated out of service and shall be granted disability pension from the date of retirement, if accepted degree of disability is 20% or more. Therefore, even the judgment delivered by Hon'ble Supreme Court in the case of ***Union of India & Others Vs. Ajay Wahi*** (Civil Appeal No. 1002 of 2006) will not come in his way. Therefore, applicant may make a representation and

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we hope and trust the Government will look into the matter and redress the grievance of the applicant. Petition is disposed of with aforesaid observations.

No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
October 21, 2010