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**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT
NEW DELHI**

TA No.327/2009

[WP (Civil) No.4527/1997 of Delhi High Court]

Ramesh Singh

.....Petitioner

Versus

Union of India & Others

.....Respondents

For petitioner: None.

For respondents: Ms. Barkha Babbar, Advocate.

CORAM:

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.**

**ORDER
07.01.2010**

1. The present petition was transferred from Hon'ble Delhi High Court to this Tribunal on its formation.

2. Petitioner by this writ petition has prayed that Order dated 09.10.1996 Annexure P-1 and P-2 be quashed and petitioner may be granted family pension.

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3. Brief facts which are necessary for disposal of present petition are that petitioner is a son of Ex-Sepoy Ram Pat Singh. Ram Pat Singh was pension holder and his son was getting a family pension on the death of his father. His pension was discontinued on 09.10.1996 by the CDA (P) Allahabad. This order hotly challenged by the petitioner by filing the present petition before Hon'ble Delhi High Court which was transferred to this Tribunal on its formation.

4. Petitioner represented to the authorities by a representation dated 28.02.1994 for grant of his family pension on the basis of the disability of earning livelihood. He kept on repeating that representation. The record office by the letter dated 17.08.1994 asked the petitioner to submit a medical certificate. A detailed enquiry was conducted by the BRO, Charkhi Dadri, Haryana and BRO Charkhi Dadri after verifying sent their findings that petitioner son of late Sepoy Ram Pat is deaf and suffering from diabetics and he is under treatment at Medical

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College & Hospital at Rohtak since December, 1993 and investigation further gave findings that petitioner is handicap being deaf suffering from diabetics for long time. However, the Civil Surgeon opined the deafness to the extent of 70%. However, the matter was examined at various levels but Authorities declined to grant him benefit of family disability pension. Hence, petitioner approached Hon'ble High Court by filing writ petition which was transferred to this Tribunal on its formation.

5. Petitioner has also produced along with this petition a certificate from ENT Department of Medical College & Hospital, Rohtak, Haryana wherein ENT Specialist has found disability to the extent of 95% whereas the District Authorities reduced it to 70%.

6. A reply was filed by the respondents and they have taken the position that since the petitioner has already attained the age of 25 years, he is not entitled to family pension. So far as the disability is concerned they have taken the position the

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deafness is not disability entitling the benefit of family disability pension.

7. We have heard learned counsel for the respondents and none has appeared for the petitioner and perused the record.

8. As per the medical report submitted by petitioner the medical report of ENT Department of Medical College & Hospital, Rohtak, Haryana, incumbent is suffering from 95% disability and the District Authorities has reduced it to 70%. In case a man has 95% hard of hearing which virtually amounts to deafness. The deafness is entitled to disability. Therefore, the incumbent is entitled to benefit of disability family pension. However, instead of directing to release the disability family pension to the petitioner, we deem just and proper that petitioner may be examined by a competent doctor of the Army Hospital and after being certified by an ENT Specialist having 95% deafness, if it is found that petitioner has really deafness and suffers from disability then a proper certificate/pension may be released to the petitioner. Let the petitioner may appear before an ENT Specialist of Army

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Hospital to assess his disability. On so being certified by ENT Specialist, respondents may grant him disability family pension. Petition is accordingly disposed of. No order as to costs/

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
January 7, 2010.