COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.
OA 699/2020

Ex Dfr Aman Preet Singh ..... Applicant
VERSUS
Union of India and Ors. ..... Respondents

For Applicant : Mr. V S Kadian, Advocate
For Respondents : Mr. Arvind Patel, Advocate

CORAM
HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
31.10.2023

Vide our detailed order of even date; we have allowed the OA 699/2020. Learned counsel for the respondents makes an oral prayer for grant of leave to appeal in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007 to assail the order before the Hon'ble Supreme Court. After hearing learned counsel for the respondents and on perusal of our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order to grant leave to appeal. Therefore, prayer for grant of leave to appeal stands declined.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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ORDER

The applicant vide this OA makes the following prayers:

"(a) Quash and set aside impugned letter No.B/40502/911/2019/AG/PS-4(Imp-II) dated 13.11.2019. And/or
(b) Direct the respondents to treat the disability as attributable to/aggravated by military service and grant disability element of pension to the applicant with benefits of rounding off/broad banding of the disability element. And/or
(c)Direct respondents to pay the due arrears of disability element of pension with interest @12%p.a. from the date of retirement with all the consequential benefits.
(d) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case alongwith cost of the

application in favour of the applicant and against the respondents."

2. The applicant was enrolled in the Armoured Corps of the Indian Army on 28.04.2000 and was discharged from service on 31.01.2019 in Low Medical Category P2(Permanent) under Rule 13(3) Item III(iii) (a))(i) of the Army Rule, 1954. The applicant had rendered 18 years and 09 months and 03 days service in the Indian Army. The applicant was placed in low medical category P2(P) for the disability **'IMMUNE SURVEILLANCE(B-22)'** with effect from 21.11.2006. The applicant, despite being placed in low medical category, showed his willingness to continue and accordingly sheltered appointment was provided to him by the Commandant, 20 Lancer with effect from 21.11.2006 till 07.12.2018 commensurate with his disability available in the Unit. However thereafter, on account of non-availability of sheltered appointment commensurate to his low medical category in the unit, the Commandant, 20 Lancer issued a Show Cause Notice vide letter No.172/11/LMC/A/2018 dated 20.05.2018 asking the applicant as to why his service should not be terminated. The applicant vide his reply dated 05.06.2018 requested for further retention in service despite being in low medical category in view of his domestic problems. The Commandant, 20 Lancer did not accept his request for further retention in the service and issued Release Order No.072/2018 vide letter No.508102/LMC/CA-1 dated 10.08.2018 and finally the applicant

was struck of strength from the Army on 31.01.2019. In terms of AO 46/80, a Release Medical Board was held at 187 Military Hospital on 07.12.2018 wherein his disability viz "IMMUNE SURVEILLANCE(B-22)' was regarded as 'neither attributable to nor aggravated by military service' and the net assessment qualifying for disability element of pension was assessed at NIL for life. The proceedings of the said Release Medical Board were confirmed by the Competent Medical Authority(HQ 24 Inf Div) on 14.12.2018 in terms of Para 81(a) of the Pension Regulation for the Army, 2008(Part-I). The applicant was communicated to this effect by the Armoured Corps Records vide letter No.15479525H/DP/Pen dated 05.02.2019 with an advice to prefer an appeal to the Appellate Committee on First Appeal within six months from 05.02.2019, if he so desired. The applicant preferred his First Appeal-cum-Representation vide letter No.VSK/324/07/2019 dated 22.07.2019 against the rejection of his claim in relation to the disability element of pension for consideration of the competent authority but his request for the grant of disability element of pension was rejected by the respondents vide letter No.B/40502/911/2019/AG/P5-4)Imp-II) darted 13.11.2019 and the decision to this effect was communicated to the applicant vide letter dated 30.11.2019 with an advice to prefer a Second Appeal to the Second Appellate Committee on Pension(SACP) against the rejection of his claim for the grant of the disability element of pension within six months. The

applicant instead of filing the Second Appeal, preferred to institute the present OA. However, in as much as the present OA is pending since 11.06.2020, we consider it appropriate to take up the same for consideration in terms of Section 21(1) of the Armed Forces Tribunal Act, 2007.

CONTENTIONS OF THE PARTIES

3. The applicant submits that he was engaged in the Indian Army on 28.04.2000 and was discharged from service on 31.01.2019 under Rule 13(3)(III)(iii)(a)(i) in low medical category after rendering about 19 years of service. He submits further that he was downgraded to low medical category for the disability 'Immune Surveillance P3)(T-24) with it having been submitted by the applicant that the categorization medical board has considered his disability as neither attributable to nor aggravated by military service. The applicant further submits that he had rendered long service in the Indian Army and the said disability occurred while performing prolonged military duties in different climatic and geographic conditions and is thus required to be considered as aggravated due to military service. The applicant submits that the disability that he suffered from has occurred whilst working in difficult postings with different kinds of meals, heavy work load and stress and strain of military service. The applicant submits that he joined the military service in a fit medical condition and served the Army in various climatic conditions and suffered the disability due to

reasons not known to him and may be due to blood donation or hair cutting by the barber at military stations or due to syringe/injection at hospitals. The applicant submits that even the opinion of the medical board as put forth through the rejection of the First Appeal gives no reasons for the causation of the disability and that no specific reason has been put forth even in the RMB proceedings dated 07.12.2018. *Inter alia,* the applicant submits that as per Part-I of the Guide to Medical Officers(MP) 2008, the disability that the applicant suffered from is required to be considered as attributable to or aggravated by military service. Reference was made on behalf of the applicant to Para 1 Guide to Medical Officer(Military Officers) 2008 which reads to the effect:

> *"AIDS-A viral infection caused by HIV Type I and II retroviruses, acquired through homo and heterosexual means, sharing of IV needles among drug abusers or unscreened blood transfusion and also by sharing of tooth brush and of razors.*
> *ATTRIBUTABLITY- HIV does not kill by itself but weakens the immune system over a period of time leading to opportunistic infections/malignancy. Medical Boards will examine all evidence to established a causal relationship between service related factors and exposure to HIV or otherwise. Where a casual relationship with service can be established, attributability may be conceded in the following cases:*
> *(a) Accidental infection by documented blood transfusion/invasive procedure/instrumentation in a service/referred civil/private hospital.*
> *(b) Health Care Workers engaged in treatment and nursing where a possible casual relationship can be established.(Reference guidelines issued vide*

para 9(b) Annexure 4 of DGAFMS letter No.5496/D GAFMS DH-3A dated 18 Jun 2001)

(c) *Evidence of any other event relating to service with a strong likelihood of a causal relationship."*

4. The applicant further submits that the infection of HIV is required to be considered as attributable to or aggravated by military service as it may be due to sharing of needles either, among drug abusers or unscreened blood transfusion and also by sharing of tooth brush and razors. The applicant submits that in as much as the disability has arisen whilst performing the military duties and has occurred due to accidental infection by documented blood transfusion/invasive procedures hence the disability of the applicant has to be treated as attributable to or aggravated by military service explicitly as the exact cause is not known and submits that as per para 9 of the Entitlement Rules for Pensionary Awards, 1982, the benefit must be given to the applicant and the applicant be not deprived of the disability element of pension.

5. Reliance was placed on behalf of the applicant on the verdict of the Hon'ble Supreme Court in ***Dharamvir Singh*** Vs ***Union of India & Ors***(Civil Appeal No.4949 of 2013) SCC 36 to submit to the effect that it is categorically laid down therein to the effect that whether the disability is attributable to or aggravated by Military Service is to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982, as shown in

Appendix-II, the Government of India, Ministry of Defence Letter No.1(1)/81/D(Pen-C) dated 20.06.1996 with Rules 14(a), 16(c) and (d) thereof and "General Rules of Guide to Medical Officers(Military Pensions), 2002 and Para 423 of the Regulations for the Medical Services of the Armed Forces Personnel 2010 deals with "Attributability to Service" with specific observations in Para 28 of the verdict of the Hon'ble Supreme Court in Dharamvir Singh (supra) to the effect:

> *"28. A conjoint reading of various provisions, reproduced above, makes it clear that:*
>
> *(i) Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable or aggravated by military service to be determined under "Entitlement Rules for Casualty Pensionary Awards, 1982" of Appendix-II (Regulation 173).*
> *(ii) A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service. [Rule 5 r/w Rule 14(b)].*
> *(iii) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally. (Rule 9).*
> *(iv) If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of*

the disease and that the conditions were due to the circumstances of duty in military service. [Rule 14(c)].
(v) If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service. [14(b)].
(vi) If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons. [14(b)]; and
(vii) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the "Guide to Medical (Military Pension), 2002 – "Entitlement : General Principles", including paragraph 7,8 and 9 as referred to above."

to contend that in the absence of any disability recorded by the respondents at the time of engagement of the applicant into military service, the subsequent disability that arises during the course of military service has to be held to be attributable to or aggravated by military service. Reliance was also placed on behalf of the applicant on the verdict of the Hon'ble Supreme Court in ***Union of India & Ors*** V ***Rajbir Singh*** (Civil Appeal No.2904/2011 2015(2) SCALE 371 to contend to the effect that the disability in the instant case had been assessed with a percentage of disablement @50% for life which be broadbanded to 75% for life in terms of verdict of the Hon'ble Supreme Court in ***Union of India & Ors*** Vs ***Ram Avtar*** vide judgment dated 10.12.2014 in Civil Appeal No.418/2012.

6. Reliance is placed on behalf of the applicant on Para 2 and 3 of the Release Medical Board proceedings and in Part-V thereof which reads to the effect:

> *"2. In case the disability existed at the time of entry, is it possible that could not be detected during the routine medical examination out at the time of entry.* **NO**
> *3. In case of disability awarded aggravation, whether the effects of such aggravation still persist?*
> *If yes, whether the effects of aggravation will persist for a material period.* **NA**

as well as on the opinion of the Medical Board in Part-V which reads to the effect:

PART V
OPINION OF THE MEDICAL BOARD

3. Causal Relationship of the Disability with Service conditions or otherwise				
Disability	Attributable to service(Y/N)	Aggravated by service(Y/N)	Not connected with service(Y/N)	Reason/cause specific condition and period in service
IMMUNE SURVEILLANCE(B-22)	N	N	Y	ID is conceded NANA vide Para 1 of Ch VI to GTMO 2008

and thus the same is wholly unreasonable and arbitrary. It is also submitted on behalf of the applicant that the rejection of the First Appeal by the respondents with reasons to the effect:

> *"2. The Appellate Committee on First Appeal(ACFA) has carefully examined the appeal dated 22 Jul 2019 submitted by above named individual in the light of relevant rules and administrative/medical provisions and the appeal has not been approved to the extent indicated below:-*

	Disability(S)	*Reasons(s)*

(i)	*Immune Surveillance*	*The ID falls under the category of HIV infection ant AIDS, which is conceded attributable only in cases where there is a direct causal relationship between an event relating to service and infection, in cases of accidental infection by documented transfusions/other invasive procedures in service/civil hospitals or in cases of Health Care Workers where a possible casual relationship can be established. In this case, on perusal of the documents, no such causal relationship with service factors could be established. Hence the ID is conceded as neither attributable to nor aggravated by military service in terms of Para 1 Chap VI of GMO 2002, amendment 2008 and ER 2008*

"

itself does not indicate that the specific disability of the applicant was not caused due to any factors attributable to or aggravated by military service. Reliance was also placed on behalf of the applicant on the order dated 24.09.2015 of the Armed Forces Tribunal(PB), New Delhi in OA 344/2014 in ***Ex-Dfr Prabhu Singh*** Vs ***Union of India & Ors*** in which case the applicant thereof who was suffering from AIDS HIV INFECTION WITH DISSEMINATED TUBERUCLOSIS was granted the prayer for the grant of the disability element of pension as observed therein to the effect:

> *"16. No clear assessment eliminating attributability, in this specific case has been undertaken. With relation to aggravation, it is evident that there can be no logical denial of this, irrespective of the*

assessed point of origination of the HIV, during the period prior to the detection of this disease, in the individual."

7. Reliance was also placed on behalf of the applicant on the order dated 16.04.2014 of the AFT(RB), Chandimandir, Chandigarh in OA 188/2011 in the case of Smt. Jagir Kaur through her power of attorney Gurcharan Singh Vs Union of India & Ors. in which case the son of the applicant (who had expired) who had been diagnosed HIV positive was held entitled to the grant of invalid pension. Reliance was sought to be placed on the observations of the Hon'ble High Court of Delhi in ***Ex Const Badan Singh*** Vs ***Union of India & Anr***(2002(64) DRJ 849 decided on 22.03.2002 with observations vide para 8 thereof to the effect:

"8. *Unfortunately there still remains a severe social stigma against persons suffering from HIV. It is difficult to conceive of a situation where any person would consciously or wittingly run the risk of contracting AIDS. It is ludicrous to contend that anyone would contract HIV so as to earn a disability pension. The fact is that his disease is spreading like wildfire in the developing countries, and in India it has assumed alarmingly epidemic proportions. This indicates that it may be the consequence Governmental failure, albeit for paucity of adequate funds, to bring about social awareness on the risks and dangers endemic in careless conjugation. It is now also sufficiently documented that AIDS is communicable not only through sexual contact but also through blood transfusion. For this reason I had specifically recorded that it had not been pressed by the petitioner that he had contracted AIDS for no fault of his own, or for reasons attributable to service. A reading of Rule 38 of the pension Rules, however, significantly discloses that grant of invalid pension is not dependent on whether the bodily or mental infirmity which permanently incapacitates the concerned person*

was contracted or suffered in the course of service. All that the Rule envisages is that the person should be incapacitated for service. In this vital aspect, these Rules are not similar to Rule 48 of the defense Services Regulations which stipulates that disability pension is admissible when an officer is retired from military service on account of a disability which is attributuable to or aggravated by such service."

to submit to the effect that no individual would willingly contract AIDS and that the applicant cannot be held responsible for any presumption of contribution to the attributability or aggravation of disability and that thus the applicant is entitled to the benefit of doubt in terms of Rule 10(b)(iii) of the Entitlement Rules for Casualty Pensionary Awards of the Armed Forces Personnel, 2008 as the respondents have been unable to discharge the onus placed on them of the attributability of the disability of the applicant having arisen due to military service in view of the fact that the presumption of the entitlement in favour of the claimant having not been rebutted and there being nothing at all known of the cause of the disease in the instant case, the attributability of the disease being due to service, has to be conceded in the instant case.

ANALYSIS

8. At the outset, it is essential to observe that the applicant suffered with the disability of Immune Surveillance in 2006 at Jodhpur after a period of six years of enrolment in the Indian Army on 28.04.200 and that there was no note of any disability recorded at the time of engagement into

military service. The clinical assessment dated 14.12.2016 at 187, Military Hospital indicates that the applicant did not have any relative history in relation to the factors of the disability and there were no inherent known factors recorded in the clinical assessment of the applicant which reads to the effect:

PART-II

"

CLINICAL ASSESSMENT

1. History

(a) Location of onset: Peace/Field/High Altitude/CI Ops

(b) Date & Time of onset May 2006 JODHPUR

(c) Relevant History: 35 years old serving soldier a case of Immune Surveillance detected during evaluation of fever. Based on Monteux test positive took ATT for 5-6 months. Initial CD4 was 670 and was started on ART)ZLN)(with CDF4)w.e.f. May 2010 due to persistent thrombocytopenia.

	May10	Nov10	Nov.12	Dec14	Dec.16
CD4	490	405	677	512	283

Good Adherence to the treatment Asymptomatic due for recat

Spouse is negative. Child 1 years 7 months Negative

2. Physical examination findings: Pulse 78/min BP :130/80 mmHg, Ht 190 cm, Wt 97 Kg

No pallor icterus clubbing cyanosis lymphadenopathy

3. Investigation report: Hb: 14.4.gm%, TLC: 7100 cmm, Plt 1.27/cmm, F/PP: 90/130, U/creat: Chest: WNL USG Mild Hepatospleenomegally, HBs Ag/Anti HCV Negative.
4. Diagnosis: IMMUNE SURVEILLANCE."

9. The spouse of the applicant and his child have been found negative in relation to the said disability. No positive reasons are put forth by the Release Medical Board for rejection of the disability, in the opinion as put forth hereinabove in Part-V of the RMB as has already been adverted to hereinabove.

10. Furthermore, the 'Entitlement Rules for Casualty Pensionary Awards, to the Armed Forces Personnel 2008, which take effect from 01.01.2008 Paras 6, 7, 10, 11 thereof provide as under:-

> *"6. Causal connection:*
>
> *For award of disability pension/special faraily pension, a causal connection between disability or death and military service has to be established by appropriate authorities.*
>
> *7. Onus of proof.*
>
> *Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/ invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.*
>
> *10. Attributability:*
>
> *(a) Injuries:*

In respect of accidents or injuries, the following rules shall be observed:

(i) Injuries sustained when the individual is 'on duty', as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).

*(ii) In cases of self-inflicted injuries while *on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.*

(b) Disease:

(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-

(a) that the disease has arisen during the period of military service, and

(b) that the disease has been caused by the conditions of employment in military service.

(ii) Disease due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contacted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical course as determined by the competent medical authority.

(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability 'should be conceded on the basis of the clinical picture and current scientific medical application.

(iv) When the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.

11. Aggravation:

A disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic conditions, environmental factors related to service conditions e.g. Fields, Operations, High. Altitudes etc."

Furthermore, Para 423 of the Regulations for the Medical Services of the Armed Forces 2010 which relates to 'Attributability to Service' provides as under:-

"423.(a). For the purpose of determining whether the cause of a disability or death resulting from disease is or not attributable to Service. It is immaterial whether the cause giving rise to the disability or death occurred in an area declared to be a Field Area/Active Service area or under normal peace conditions. It is however, essential to establish whether the disability or death bore a causal connection with the service conditions. All evidences both direct and circumstantial will be taken into account and benefit of reasonable doubt, if any, will be given to the individual. The evidence to be accepted as reasonable doubt for the purpose of these instructions should be of a degree of cogency, which though not reaching certainty, nevertheless carries a high degree of probability. In this connection, it will be remembered that proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. If the evidence is so strong against an individual as to leave only a remote possibility in his/her favor, which can be dismissed with the sentence "of course it is possible but not in the least probable" the case is proved beyond reasonable doubt. If on the other hand, the evidence be so evenly balanced as to render impracticable a determinate conclusion one way or the other, then the case would be one in which the benefit of the doubt could be given more liberally to the individual, in case occurring in Field Service/Active Service areas.

(b). Decision regarding attributability of a disability or death resulting from wound or injury will be taken by the authority next to the Commanding officer which in no case shall be lower than a Brigadier/Sub Area Commander or equivalent. In case of injuries which were self-inflicted or due to an individual's own serious negligence or misconduct, the Board will also comment how far the disablement resulted from self-infliction, negligence or misconduct.

(c). The cause of a disability or death resulting from a disease will be regarded as attributable to Service when it is established that the disease arose during Service and the conditions and circumstances of duty in the Armed Forces determined and contributed to the onset of the disease. Cases, in which it is established that Service conditions did not determine or contribute to the onset of the disease but influenced the subsequent course of the disease, will be regarded as aggravated by the service. A disease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in Service if no note of it was made at the time of the individual's acceptance for Service in the Armed Forces. However, if medical opinion holds, for reasons to be stated that the disease could not have been detected on medical examination prior to acceptance for service, the disease will not be deemed to have arisen during service.

(d). The question, whether a disability or death resulting from disease is attributable to or aggravated by service or not, will be decided as regards its medical aspects by a Medical Board or by the medical officer who signs the Death Certificate. The Medical Board/Medical Officer will specify reasons for their/his opinion. The opinion of the Medical Board/Medical Officer, in so far as it relates to the actual causes of the disability or death and the circumstances in which it originated will be

regarded as final. The question whether the cause and the attendant circumstances can be accepted as attributable to/aggravated by service for the purpose of pensionary benefits will, however, be decided by the pension sanctioning authority.

(e). To assist the medical officer who signs the Death certificate or the Medical Board in the case of an invalid, the CO unit will furnish a report on :

(i) AFMSF – 16 (Version – 2002) in all cases
(ii) IAFY – 2006 in all cases of injuries.

(f). In cases where award of disability pension or reassessment of disabilities is concerned, a Medical Board is always necessary and the certificate of a single medical officer will not be accepted except in case of stations where it is not possible or feasible to assemble a regular Medical Board for such purposes. The certificate of a single medical officer in the latter case will be furnished on a Medical Board form and countersigned by the Col (Med) Div/MG (Med) Area/Corps/Comd (Army) and equivalent in Navy and Air Force."

(emphasis supplied),

has not been obliterated.

11. The reasons put forth by the Appellate Committee on First Appeals(ACFA) for rejection of the disability claim vide letter dated 13.11.2019 are also based on the presumptions raised on conjectures in as much there is nothing apart from presumptions raised against the applicant for the causation of the disability as apparently there is no clear assessment eliminating the attributability to any service conditions by the respondents and no such assessment has been undertaken in terms of Para 7 specifically of the Entitlement Rules for Causality Pensionary Awards to Armed Forces Personnel 2008 which reads to the effect:

"7. Onus of proof.

Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/

invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.

Furthermore, para 10(b)(iii) of the Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008, is to the effect:-

> ***"If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture and current scientific medical application.", the attributability of the disability of the applicant being due to military conditions has to be presumed, the attributability of the disability of the applicant being due to military conditions has to be presumed."***

and in terms thereof the disability that the applicant suffers from has to be held to be attributable to military service.

CONCLUSION

12. Under the circumstances, the **OA 699/2020** is allowed and the applicant is held entitled to the grant of disability element of pension qua the disability of Immune Surveillance assessed @30% for life in terms of Govt of India, Ministry of Defence Letter dated 31.01.2001which is directed to be broad banded to 50% for life in terms of the verdict of the Hon'ble Supreme Court in ***Union of India*** vs ***Ram Avtar*** decided on 10.12.2014 in Civil Appeal no. 418 of 2012 with effect from **01.02.2019,** and the respondents are directed to issue the corrigendum PPO with

directions to the respondents to pay the arrears within a period of three months from the date of receipt of a copy of this order, *failing which*, the respondents would be liable to pay interest @6% p.a. on the arrears due from the date of this order to the applicant.

12. No order as to costs.

Pronounced in the Open Court on this 31 day of October, 2023.

REAR ADMIRAL DHIREN VIG)
MEMBER (A)

(JUSTICE ANU MALHOTRA)
MEMBER (J)

/CHANANA/