

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

53.

MA 5391/2024 in MA 5210/2024 in OA 207/2012

Lt Col (Dr.) B. C. Sharma Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. V S Tomar, Advocate
For Respondents : Mr. Anil Gautam Sr CGSC

CORAM

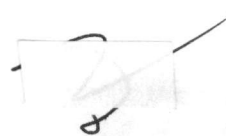
HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
12.12.2024

MA 5210/2024 has been filed by the applicant with the following prayers:-

- “(a) The respondents to pay a sum of Rs. 5,80, 670/- with 12% wef 01 Jan 2006 to 30 June 2014 after re-fixing his disability element of disability pension wef 01 Jan 2006 to 30 June 2014.*
- (b) Any other relief as deemed appropriate in the facts and circumstances of the case.”*

2. A perusal of the said application itself indicates that an OA filed by the applicant, which as per the records of MA 5210/2024 is indicated to be OA 207/2012 was allowed vide order dated 07.11.2012. It has been submitted further by the applicant that thereafter the applicant filed MA 147/2015 in OA 207/2012 which too was allowed vide order dated 02.03.2015, in view of the verdict of the Hon'ble Supreme Court in the case of *Union of India vs. Ram Avtar*



granting the benefit of rounding off the disability from 80% to 100%.

3. The applicant has further made averments to the effect:-

"7. The Applicant being a Doctor, initially, in the Sixth Pay Central Commission, Non Practicing Allowance was not added in the pension and later on the pension of the Applicant was enhanced to Rs 33757/-pm from Rs 27005/- pm wef 01 Jan 2006 vide PCDA (P) Circular No.24 dt 11Sep 2015 and remained so till 30th June 2014 before implementation of "One Rank One Pension". A copy of the annexure'B' enhancing pension of pre-2006 officers of Army Medical Corps by including 25% NPA is annexed as ANN-E-3. As per this the disability pension of the Applicant should have been enhanced to Rs 20254/-pm wef 01 Jan 2006 but the same was not done.

8. The Applicant made representation dt 10 Dec 2018 to his pension disbursing Bank for payment of arrears corresponding to the basic pension of Rs 33757/-pm at the rate of Rs. 20254/-pm wef 01 Jan 2006 to 30th June 2014 but the said Bank refused to pay the arrears to the Applicant on the plea that there was no table for disability element of pension in the circular No.24 of 2015. Thereafter the Applicant sent representation dt 10 Dec 2018 along with copy of the reply of the Banker to the PCDA (Pension) Allahabad by giving details of month wise calculation. It is also pertinent to mention that a copy of this representation was also handed over to Mr Anand, representative of PCDA (P) Allahabad in AFT (PB) Delhi. So far no reply has been received. A copy of the representation dt 10 Dec 2018 with month wise calculation of arrears is annexed hereto as ANN-E-4.


9. The OROP was implemented wef 01 Jul 2014 and the Applicant has been paid correct pension and disability pension ie Rs 42500/-service pension and corresponding disability pension of Rs25,500/-pm. wef 01 July 2014. However, his broad-banding of disability pension from 80% to 100% wef 01 Jan 2006 to 30th June 2014 remains unpaid.

10. That the Applicant had filed MA/1946/2019 in OA/207/2012 for execution but the same had to be withdrawn as it was not properly drafted and the same was withdrawn. A

*copy of the said order dt 06 Aug 2019 is annexed hereto as ANN-
E-5."*

4. Apparently, the cause of action in the instant case is different from that in OA 207/2012. In view thereof, counsel for the applicant seeks to withdraw the present MA 5210/2024 seeking liberty to seek redressal by filing a fresh OA, if permissible in accordance with law. In view of the said submissions, MA 5210/2024 is dismissed as withdrawn with liberty granted as prayed. A fresh OA, if so, filed shall be considered and adjudicated in accordance with law

5. Likewise, MA 5391/2024 filed by the applicant seeking to add a response to OA 207/2012 is sought to be withdrawn by the counsel for the applicant. In view of the factum that MA 5210/2024 has been dismissed with liberty to seek redressal by filing a fresh OA which if filed would be dealt with accordance with law, in view thereof MA 5391/2024 is also dismissed as withdrawn.


(JUSTICE ANU MALHOTRA)
MEMBER (J)


(REAR ADMIRAL DHIREN VIG)
MEMBER (A)