

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

O.A. No. 1610 of 2022

With

M.A. No. 2101 of 2022

In the matter of :

Master At Arms Rajkishore Panda (Retd.) ... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri Manoj Kr. Gupta, Advocate

For Respondents : Shri Shyam Narayan, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
04.01.2024

M.A. No. 2101 of 2022 :

Vide this application, the applicant seeks condonation of 10703 days' delay in filing the OA. In view of the law laid down by the Hon'ble Supreme Court in the case of **Deokinandan Prasad Vs. State of Bihar [AIR 1971 SC 1409]** and in **Union of India & Ors. Vs. Tarsem Singh [2009 (1) AISLJ 371]**, delay in filing the OA is condoned.

MA stands disposed of accordingly.

O.A. No. 1610 of 2022 :

By way of the present application filed under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant, in Para 8, is seeking following reliefs :

- (a) To direct the respondents to revise the disability element of disability pension @ 220/pm from date of discharge as he retired in the rank of CPO and DE was paid in the rank of PO and it is further broad banded as per the Law upheld in the case of Ram Avtar by Apex Court; and/or***
- (b) To direct the respondents to revise his DE on subsequent revision as per his entitlement after revision of same in the rank of CPO from date of discharge and arrears to be paid with 10% interest; and/or***
- (c) To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.***

2. Briefly, the facts of the case are that the applicant was enrolled in the Indian Navy on 10.09.1971 and was discharged from service on 30.09.1991 being in low medical category. The applicant was sanctioned disability element of pension @ Rs. 180/- temporary vide PPO No. 09/97/B/D/044/1992 for the period from 01.10.1991 to 01.07.1996. It is the case of the applicant that he should have been granted disability element of pension @ Rs. 220/- as at the time of discharge, he was holding the rank of Chief Petty Officer (CPO) along with broadbanding thereof. The applicant, therefore, submitted a representation dated 03.06.1992 for correction of the amount, but nothing was done in that regard and thus the disability element was sanctioned at the old rate for five years upto 26.11.2001. Thereafter, when the disability element of pension was reassessed and sanctioned for life, the grievance of the applicant was not redressed.

3. *Per contra*, the respondents have justified the fixation of disability element of pension stating that the applicant has been getting disability element of pension sanctioned from time to time periodically since his discharge and finally with

effect from 27.11.2001, the applicant was granted disability element @ 40% for life. The respondents submit that the applicant is in receipt of disability element in the rank of Master-At-Arms which is equivalent to Chief Petty Officer and, therefore, no amendment is required to be done in the case.

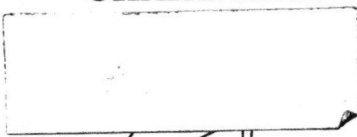
4. Be that as it may, having gone through the available records, we find that the applicant was discharged in the rank of CPO, as is evident in the Annexure-R-1 filed by the respondents with the counter affidavit. Moreover, the respondents have not refuted the fact of the applicant having been discharged in the rank of CPO, however, no details have been provided to support their contention that the disability element of pension sanctioned to the applicant as the Master-At-Arms is equivalent to that of Chief Petty Officer. Therefore, looking to the nature of the prayers made by the applicant, we allow the instant OA.

5. Accordingly, subject to verification, the respondents are directed to revise the disability element of pension, as sanctioned from time to time, based on the rank held by him at the time of discharge i.e. CPO @ 220/- pm, or whichever is

admissible in the said rank, after adjusting the disability element of pension already paid to the applicant. The applicant is also entitled to broadbanding of the disability element of pension, admissible with effect from 01.01.1996, in view of the policy letter dated 31.01.2001 and also in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of ***Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012)*** decided on 10.12.2014. However, in view of the law laid down in the case of *Tarsem Singh (supra)*, arrears of the same be restricted to three years from the date of filing the present OA i.e. 21.07.2022. The applicant will be accordingly issued a fresh Corrigendum PPO within three months and arrears paid accordingly, *failing which*, it shall carry interest @ 6% till actual payment.

6. There is no order as to costs.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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