

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

A..

OA 1472/2016

Ex LAC Upendra Rathore Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Prabodh Kumar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
29.02.2024

Vide our detailed order of even date, we have allowed the main OA No.1472/2016. Faced with this situation, learned counsel for the respondents makes an oral prayer for grant of leave for impugning the order to the Hon'ble Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

After hearing learned counsel for the respondents and going through 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, therefore prayer for grant of leave to appeal stands dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

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ORDER

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application seeking grant of Invalid Pension. The applicant was enrolled in the Indian Air Force on 26.09.2012 and invalided out from service on 11.03.2016.

2. It is submitted by the respondents that the applicant was invalided out from service on the account of disability - BIPOLAR AFFECTIVE DISORDER, and that he does not have a service of 10 years, as he was invalided out within 4 years of service.

3. Keeping in view that the mandatory requirement of minimum 10 years service for grant of invalid pension has been dispensed with vide Govt. of India, Ministry of Defence letter No. 12(06)/2019/D(Pen/Pol) dated 16.07.2020, and subsequently, the stand taken by this Tribunal in Lt. A.K. Thapa v. UoI [OA 2240/2019] vide its judgement dated 07.07.2023 and judgement dated 11.03.2022 in Ex Rect Chhote Lal v. UoI & Ors. [OA


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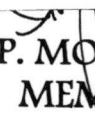
368/2021], wherein the requirement of the Armed Forces Personnel to be permanently incapacitated from civil re-employment as well (apart from permanent incapacitation from military service) for the grant of the Invalid pension in terms of the Govt. of India, Ministry of Defence letter no. 12(06)/2019/D(Pen/Pol) dated 16.07.2020, and the cut off date for applicability has been held to be wholly arbitrary and unconstitutional and violative of Article 14 and Article 16 of the Constitution of India and the said requirement has thus been set aside, we see no reason not to allow the prayer of the applicant with regard to the grant of invalid pension.

4. Accordingly, we allow this application and direct the respondents to grant invalid pension to the applicant from the date of invalidment i.e. 11.03.2016 and the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

5. No order as to costs.

Pronounced in the open Court on this day of ⁰⁹ February, 2024.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[LT GEN C. P. MOHANTY]
MEMBER (A)

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