

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

72.

OA 1824/2018

Col Bikram Singh Malik (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Anil Srivastava, Advocate
For Respondents : Mr. Satya Ranjan Swain, Advocate

CORAM

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

ORDER
15.02.2024

As is evident from the impugned order dated 11 Oct 2018 (Annexure A1), the applicant has been suffering from ID (i) Sensory Neural Hearing Loss (LT), which is attributable to and aggravated by military service and the disability has been assessed @ 20% for life with effect from 15 Jul 2006 to 31 Dec 2015. However, after doing so, the broad banding to 50% has been granted only with effect from 01 Jan 2016 and between the period 15 Jul 2006 and 31 Dec 2015, the broad banding from 20% to 50% has not been allowed. Claiming broad banding @ 50% for the aforesaid period, this application has been filed.

2. Having heard learned counsel for the parties, we are of the considered view that the broad banding is to be granted to the applicant from the date of the disability as held by the Hon'ble Supreme Court in the case Union of India v. Ram Avtar (Civil Appeal No. 418 of 2012) and, therefore, there is no reason as to

why the prayer made by the applicant should not be allowed. At this stage, the learned counsel for the respondents argued that the payment of arrears shall be restricted to only three years. We are unable to accept this argument for the simple reason that the principle of broad banding was brought into force from the year 2001 and in spite of the disability of 20% detected from 15 Jul 2006 for reasons that remain unexplained, it was the respondents who committed the error which deprived the applicant of the benefit of broad banding from 15 Jul 2006. We take judicial notice of the fact that under similar circumstances similar prayer made has not been accepted by other Benches of this Tribunal.

3. Keeping in view the aforesaid, we allow this application and hold that the applicant is entitled to disability pension at the broad banded rate of 50% right from 15 Jul 2006 to 31 Dec 2015. We further direct the respondents to grant him arrears at the broad banded rate of 50% from 15 Jul 2006 to 31 Dec 2015 within three months, failing which the applicant would be entitled to interest @ 8% per annum till actual payment. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Vide our detailed order of even date, we have allowed the main OA No.1824/2018. 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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