

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

OA 1914/2019

Ex AC (U/T) Ashok Kumar Soni **... Applicant**
Versus
Union of India & Ors. **... Respondents**

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Harish V. Shankar, Advocate

CORAM :

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

ORDER

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application seeking grant of Disability Pension. However, at the time of final arguments, it is submitted by the applicant that he is only pressing for grant of Invalid Pension. The applicant was enrolled in the Indian Air Force on 27.12.2017 and invalided out from service on 13.11.2018.

2. It is submitted by the respondents that the applicant was invalided out from service on the account of disability suffered due to an injury that occurred during Holi celebrations, though while in the service on duty, and that he does not have a service of 10 years, as he was invalided out within 1 year 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 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. 13.11.2018 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.

6. Pending miscellaneous application, if any, stands disposed of.

Pronounced in the open Court on 18 day of March, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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