

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

OA 1998/2017

Col Shekhar Singh (Retd) ... Applicant  
Versus  
Union of India and Ors. ... Respondents

For Applicant : Mr. Anil Srivastava, Advocate  
For Respondents : Mr. Rajesh Kumar Das, Advocate

Dated: March 22, 2024

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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 of the Armed Forces tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under :-

*“(a) To direct the respondents to grant the war injury disability pension to the applicant from the date of his retirement along with the interest on the arrears thereupon.*

*“(b) To direct the respondents to pay disability pension (war injury) duly rounded off to @100% w.e.f. the date of his retirement alongwith interest @12% on the arrears thereof.*

*“(c) To direct the respondents to grant the CAA to the applicant from the date of his retirement alongwith the interest on the arrears thereof.*

*“(d) To direct the respondents No. 4 to recalculate the entitlement being war casualty with 100% disability alongwith CAA from AGIF with interest on the arrears for unduly delayed payments.*

*(e) That the applicant be awarded cost of the litigation @Rs. 75,000/-.*

*(f) To pass such further order or orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."*

2. The applicant was commissioned in the Indian Army on 14<sup>th</sup> November, 1971 and discharged from Army Service on 23<sup>rd</sup> March, 2002. The applicant was tried by GCM in respect of five charges under Section 52 (f) and Section 63 of the Army Act and sentenced to be dismissed from service on 23<sup>rd</sup> March, 2002. Subsequently based on orders of Armed Forces Tribunal, Principal Bench, New Delhi dated 24<sup>th</sup> May, 2011 in TA Nos. 447/2009 and 538/2010, the sentence had been set aside and the applicant was deemed to have retired from service with consequential benefits including gratuity and pension w.e.f. date of retirement.

3. The applicant submits that for the purpose of Below Knee Amputation (RT), the disability had been assessed @ 60% for the period from 23<sup>rd</sup> March, 2002 to 21<sup>st</sup> January, 2014 rounded off to 75% and @80% w.e.f. 22<sup>nd</sup> January, 2014 for life, rounded off to 100% as is evident from the medical records and PCDA (Pension Allahabad PPO No. M/DIS/0086/2015 dated 18<sup>th</sup> August, 2015. The applicant had been granted War Injury Pension w.e.f. 23<sup>rd</sup> March, 2002 to 21<sup>st</sup> January, 2014 as per percentage of disability stated above vide AG's Branch, IHQ of MoD letters

No. 2656/IC-25508/T-6/MP-5(B)/533/2014/AG/PS-4(Imp-II) dated 27<sup>th</sup> November, 2014 and corrigendum letter of even No. dated 6<sup>th</sup> May, 2016. The Learned counsel for the respondents has also submitted a short affidavit confirming the broad banding of war injury Pension from 80% to 100% w.e.f. 1<sup>st</sup> January, 2016. As far as grant of CAA, as prayed for by the applicant is concerned, it is granted only in those cases where the disablement has been assessed @100% by the Medical Board as per Para 11 of Chapter VII of GMO 2002 amendment 2008 which reads as under:-

*"11. In the forces, the evaluation of disablement or assessment is made to ensure compensation on equal terms for all members suffering from like disablement. When the assessment is below twenty per cent, it may be assessed as 1-5 per cent; 6-10 per cent; 11-14 per cent and 15-19 per cent. Subsequent assessments are made in multiples of 10, rising from 20 per cent ; to maximum of 100 per cent. If the disability is assessed at 100 per cent, a recommendation will invariably be made as to the necessity or otherwise for a constant attendant, bearing in mind that the necessity arises solely from the condition of disability. If an attendant is recommended, the period for which such attendant is necessary, should be mentioned."*

In the instant case the applicant's disability stands at 80% which has been rounded off to 100%, therefore, the Medical Board being the appropriate and Competent Authority for grant of CAA benefit has not made any such recommendation. The applicant is not entitled to such benefit and his claim of CAA is thus rejected on this ground alone.

4. Accordingly, we allow this application partially and direct the respondents to grant War Injury Pension to the applicant for Below Knee Amputation (RT) @ 60% for the period from 24.03.2002 to 21.01.2014 rounded off to 75% and @ 80% rounded off to 100% w.e.f. 22.01.2014 for life 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.

5. Accordingly, 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.

6. No order as to costs.

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

Pronounced in the open Court on 22 day of March, 2024.

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

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

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