

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

108.

OA 2108/2019

Ex AG PO (RP) Himanshu Garg ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ved Prakash, Advocate  
For Respondents : Mr. Arvind Patel, Advocate

CORAM

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

ORDER  
05.04.2024

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application seeking grant of disability pension.

2. The soldier was enrolled in the Indian Navy on 30.01.2004 and discharged from service on 31.01.2019. The RMB dated 11.12.2018 held that the applicant is suffering from disability - "*Comminuted Fracture Shaft of Tibia Fibula (LT) (Optd)*" assessed at 30% for life. It is admitted fact that the disability of the applicant arose due to a road accident sustained by the applicant while driving his bike from Vasant Kunj, Delhi (His Home) to South Block, New Delhi (His Office) on 10.02.2018.

3. With the disability of the applicant assessed at more than 20% by the Release Medical Board, the limited question for consideration before us is whether the travel of applicant from his

home to office shall be considered to be 'duty' for the purpose of grant of disability pension or not.

4. We find it pertinent to refer to Para 9 (e) of Entitlement Rules for Casualty Pensionary Awards, 2008 reproduced as under:

*"9. For the purpose of these Rules, a person subject to the disciplinary code of Armed Forces shall be treated to be on duty:*

xxx                      xxx                      xxx                      xxx                      xxx

*(e) When travelling by a reasonable route from one's official residence to and back from an appointed place of duty, irrespective of the mode of conveyance (whether private or provided by the Government).*

xxx                      xxx                      xxx                      xxx                      xxx"

5. In view of the settled law laid by this Tribunal with respect to even armed forces personnel travelling to his duty station from the leave station and vice versa shall be considered to be on 'duty', it is clear from the documents placed on record that the applicant was travelling to his office from his home, and that we don't find any reason not to hold that he should be construed to be on 'duty' at the time of road accident.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement i.e. 31.01.2019 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.

7. Therefore, 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.

8. No order as to costs.

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

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

Ps  
OA 2108/2019