

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

119.

OA 2310/2019

Ex Sep Dhanvijay Sidhartha Ramchandra 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
16.02.2024

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

2. The applicant was enrolled in the Indian Army on 10.11.1980 and invalided out from service on 28.02.1990. The applicant submits that for the purpose of disabilities suffered by him, he is entitled to disability pension. Per Contra, it is submitted by the respondents that the applicant being a non-pensioner, his documents have been destroyed, and without the assessment and disabilities specified by the Invalidment Medical Board, it would not be feasible to adjudicate the case of Disability Pension. Faced with this situation, the applicant submits that he is pressing only for invalid pension.

3. Keeping in view the consistent stand taken by this Tribunal based on the law laid down by the coordinate bench of 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. 28.02.1990. However, the arrears shall be restricted to three years prior to the date of filing of OA (03.12.2019) keeping in view the law laid down in the case of *Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649]*.

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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Vide our orders of even date, we have allowed the OA. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007, to the Hon'ble Supreme Court. We find no question of law much less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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