

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

121.

OA 2405/2019

Ex Sep/AA Dharmendra Haridaya Applicant
Narayan Ram
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Mohan Kumar, Advocate
For Respondents : Ms. Jyotsna Kaushik, 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 or in alternate Invalid Pension.

2. The applicant was enrolled in the Indian Army on 02.01.2001 and invalided out from service on 15.05.2009. However, at the time of arguments, the applicant submits that he is pressing only for prayer seeking grant of invalid pension.

3. It is submitted by the respondents that it is a case of alcohol dependence, and thus, the applicant is not entitled to invalid pension since he himself is responsible for his actions. However, we find that as per Rule 58(c) of the Pension Regulations for the Army, 2008, even the cases of alcohol

dependence are entitled to grant of invalid pension as specified herein:

“58 (c) Personnel below officer rank who is invalided out of service in consequence of any disorder (including sanity) resulting from indulgence in drugs or drinks which was within his control will be eligible for invalid pension/gratuity. Orders of the competent authority under Regulation 8 of these Regulations shall be obtained in each case.”

4. 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.

5. Accordingly, we allow this application and direct the respondents to grant invalid pension to the applicant from the date of invalidment i.e. 15.05.2009. However, the arrears shall be restricted to three years prior to the date of filing of OA (16.12.2019) keeping in view the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

6. 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.

7. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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