

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

A.

OA 567/2016

Brig Ajay Kumar (Retd)

..... Applicant

VERSUS

Union of India and Ors.

..... Respondents

For Applicant : Mr. Rajesh Nandal, Advocate

For Respondents : Mr. V Pattabhi Ram, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
27.03.2024

Vide our detailed order of even date, we have partially allowed the OA 567/2016. Learned counsel for the respondents makes an oral prayer for grant of leave to appeal in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007 to assail the order before the Hon'ble Supreme Court. After hearing learned counsel for the respondents and on perusal of our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order to grant leave to appeal. Therefore, prayer for grant of leave to appeal stands declined.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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ORDER

1. The applicant vide the present O.A 567/2016 has made the following prayers:-

“(a) To declare the action of the respondents as unjust, arbitrary and illegal; and

(b) To direct the respondent to sanction the disability pension on being released from service with 60% disability for life in medical category P2(Permanent) in Jun 2014 whereas the condition has further worsened since the last medical board.

(c) To direct the respondents to grant the benefit of rounding of disability of the applicant to 75% and disability pension comprising of disability element and service element after rounding off the disability to 75% due to 60% composite in terms of their policy letter dated 31 Jan 2001.

(d) To direct the respondent to take justified view to safeguard future health management and restricted employment of the applicant due to the disease.

(e) To treat the war injury of the applicant separately being on different footing as it was suffered in firing with militants in Operational condition from the normal disability and allow its broad banding to 50% from 14% in the light of the policy letter dated 31 Jan 2001. Respondents

has also accepted it separately @14% for life except IFA without any authority or logic.

(f) In case the war injury is broad banded to 50% than the normal service disability which has been arrived at 30% it be broad banded to 50% as per the policy in vogue of the respondents.

(g) To grant an interest of 12% on the delayed payment of service element of the disability pension and revision of disability element of the disability pension; and

(h) To award exemplary costs upon the Respondents in the facts and circumstances of the record; and

(i) 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 IC-38391A Brig Ajay Kumar(Retd) was commissioned in the Indian on 22 Dec 1979(PC) and retired from service on 30 Jun 2014 on reaching the age of superannuation. At the time of retirement from service, the officer was brought before a duly constituted Release Medical Board which viewed his disabilities as ID (i) "SPLINTER INJURY RIGHT CHEEK" 11-14% ID (ii). " PIVD C6 C7" 30% (iii) PRIMARY HYPERTENSION"30% ID (iv) "PRIMARY HYPOTHYROIDISM" 11-14%. The Release Medical Board assessed the disabilities of the applicant as ID (i) 'attributable to military service', ID (ii) & (iii) 'aggravated by military service' and ID (iv) NANA with composite degree of disablement @60% for life. However, the competent Authority accepted only ID (ii) as being aggravated by military service with degree of disablement @ 30% for life. ID (i) (iii)&(iv) were conceded as NANA vide AG PS-4(imp-II)

letter No. 52334/IC-38391/Brig/MP 6 (A) 19/2014/ AG/ PS-4(imp-II) dt. 24 Nov 2014. The applicant is thus in receipt of the disability element of disability pension @ 30% for life wef 01 Jul 2014 vide PPO No.M/Corr/6028/2015 dated 09 Jan 2015. A representation to the Appellate Committee on First Appeal(ACFA) was made by the applicant on 16.12.2014 which was rejected vide the impugned letter dated 29.07.2015 for the following reasons:-

“

S.No	Disability(ies)	Reason(S)
(i)	SPLINTER INJURY RT CHEEK	ID is held as attributable to military service, however the percentage of disablement has been assessed @11-14% for life, which is less than 20% therefore you are not eligible for grant of war injury element in terms of Para 11.5 Govt of India letter No. 1(2)/97/D(Pen-C) dt 31 Jan 2001 and Regulation 103(b) of PRA Part-I 2008.
(ii)	PRIMARY HYPERTENSION	The onset of the ID was in Dec 2011 at Ambala, a peace station and you served in peace till retirement. Hence ID is neither attributable to nor aggravated by military service.

”

3. A further representation dated 27.08.2015 was made by the applicant against the rejection of the first appeal was not adjudicated by the respondents within the stipulated period of six months as brought forth through the reply dated 25.07.2017 of the respondents

and thus the present OA instituted on 18.05.2016 is taken up for consideration in terms of Section-21(2)(b) of the AFT Act, 2007.

4. As has been brought forth herein above the applicant is already in receipt of the disability element of pension for the disability of PIVD C6 C7 assessed @30% for life which had been opined by the RMB itself to be aggravated due to stress and strain of service in terms of Para-51(d) of the GMO(MP), 2008.

CONTENTIONS OF THE PARTIES

5. On behalf of the applicant, it has been submitted that during his 35 years of active service, he was posted to various places in peace as well as in field areas, that he was thoroughly examined at the time of entry into service and had been selected to undergo the training being medically fit in SHAPE-1. Inter alia, the applicant submits that whilst carrying out operations in Counter Insurgency Ops Area of J&K, he sustained a splinter injury in his Right cheek which is still embedded there and he had been downgraded to P2 Permanent for this injury and its after affects are still being felt by the applicant, he being on medication for the same. As regards, the disability of PIVD assessed as 30% disability for life, the applicant further submits that his condition worsened since April, 2015. The applicant submits that he had worked at High Altitude Terrains for 22 months and submits that

he was diagnosed with Primary Hypertension and Primary Hypothyroidism and was subsequently downgraded to Lower Medical Category as P2 and his disability was assessed as composite 60% for life for the three ailments by the RMB. The applicant further submits that the disability of Primary Hypertension as per guidelines for medical officers with detected within one year of de-induction from high altitude area is considered as aggravated and disability is admissible but as per the IFA Army, it is only applicable if detected in high altitude area and it has been submitted by the applicant and this is the difference in the perception of the medical authorities and the IFA.

6. It has thus been submitted by the applicant despite the RMB having opined the disability of Primary Hypertension has been aggravated by military service with it having been detected within one year of his tenure in terms of Para-43 of the GMO(MP), 2008 and the RMB having opined that the said disability was aggravated due to stress and strain of military service, despite the disability of SPLINTER INJURY RT CHEEK having been opined by the medical board to be attributable due to battle casualty in J&K dated 10.05.2000 and the statement of the applicant in Part-I as referred to in DGAFMS letter no. 16050/MA(Pen) dated 28.11.2005, IFA despite the recommendation of the DGAFMS and AG's Branch

recommending the disability at 60% composite for life brought it down to 30% for life, the applicant submits that he is entitled to the disability pension which is required to be broadbanded to 75% in terms of the verdict of the Hon'ble Supreme Court in ***UOI & Ors. vs Ramavtar*** in Civil Appeal No. 418/2012. Inter alia, the applicant placed reliance on the verdict of the Hon'ble Supreme Court in ***KJS Buttar Vs UOI & Anr.***, in Civil Appeal No. 5591/2006 to contend to similar effect. Inter alia, the applicant placed reliance on the verdict of the Hon'ble Supreme Court in ***Shiv Dass vs. UOI***, AIR 2007 SC 1330 to contend to the effect that there is no limitation in the pensionary claims as the cause of action arose from month to month basis. Reliance was placed on behalf of the applicant also on Govt of India, MoD Letter no. 16(02)/2015-D(Pen/Pol) dated 08.08.2016 which provides the method of calculation of disability where two types of IDs are involved wherein it is provided to the effect:-

“

No. 16(02)/2015-D(Pen/Pol)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare

New Delhi, Dated 8 August 2018

To
The Chief of the Army Staff
The Chief of the Naval Staff,
The Chief of the Air Staff

Subject: Method of Calculation of disability where two types of IDs are involved.

Sir,

It has been observed during perusal of RMB/IMB proceedings that some Armed Forces Personnel have sustained some disability under category B&C as Ministry of Defence letter No. 1/2/97/D(Pen C) dated 31 January, 2001 and composite assessment is made for all the disabilities by the Medical Board.

2. The composite assessment of disabilities may be equal to or less than the mathematical sum of percentage of disabilities. Since the calculation method of normal disability and war injury is different and assessment of disabilities including both the normal disability and war injury are assessed as composite. therefore in absence of clear directions: guidelines calculation of pension value for disabilities including both types of disabilities is not possible it is also mentioned that rounding off benefit is presently given only in Invalidment cases attributable to or aggravated by military service and not in discharge cases.

3. Now the issue has been analyzed in totality and the undersigned is directed to state that the methodology of calculation of pension values in cases where War Injury Element and Disability Element both exist may be carried out as follows. Firstly, the composite assessment for all accepted disabilities shall be derived. The higher element, ie. War Injury Element (WIE) shall be deducted from the composite assessment and paid in full, irrespective of the percentage of assessment. The remainder shall be calculated as the normal Disability Element (DE) The minimum assessment criterion shall not be applicable in such cases as the net assessment reckonable for WIE and DE together is more than 20%.

(a) Discharge Cases- Cases where Armed Forces Personnel are discharged from service on completion of prescribed terms of engagement the higher element. L.e. the War Injury Element (WIE) Shall be deducted from the composite assessment and paid in full, irrespective of the percentage of assessment. The remainder shall be calculated as normal Disability Element (DE).

(b) Invalidment Cases Cases where Armed Forces Personnel are invalided out on medical ground which is attributable to or aggravated by military service, the composite assessment and war injury element will be rounded off in terms of para 72 of GOL MOD letter No 1 (2)97/D(Pen-C) dated 3:01 2001 Further, rounded percentage of War Injury Element (WIE) shall be deducted from the rounded percentage of composite assessment. The remainder shall be calculated as normal Disability Element (DE).

4. The provisions of this letter shall take effect from the date of issue.

5. This issues with the concurrence of Finance Division of this Ministry vide their ID No. 10(07)/2016/Fin/Pen dated 01.07.2016.

6. Hindi version will follow."

to submit thus that the applicant is entitled to the grant of the disability element of pension in relation to the disability of SPLINTER INJURY RT CHEEK whatever its assessment may be, in as much as it was opined to be attributable to due to his having been wounded as a battle casualty. Reliance was also placed on behalf of the applicant on the order dated 25.10.2018 in OA 829/2016 in the case of **Col Onkar Singh Yadav vs. UOI & Ors.** to submit to the effect that the opinion of the RMB could not have been refuted by the administrative authorities and reliance was thus placed on Para-5 of the said order in **Col Onkar Singh Yadav**(Supra) which is to the effect:-

"We are of the view that the administrative decision taken by the respondents to deny disability element of pension to the applicant is against the decision of the Hon'ble Supreme Court in Ex Sapper Mohinder Singh v. Union of India and another(C.A. No. 164 of 1993

decided on 14.01.1993) and Dharamvir Singh v. Union of India and others (2013) 7 SCC 316."

to contend to the effect vide a catena of orders, this Tribunal has reaffirmed with consistency that due credibility and primary has to be given to medical board proceedings and whether it be the PCDA or administrative authority, refutation of a medical opinion can only be by another more competent medical opinion and thus there is no justifiable reason on the part of the respondents in denying the disability element of pension to the applicant, especially when the RMB had determined the invaliding disease and assessed his disability @ 20% in that case. On behalf of the respondents, reliance was placed on Regulation 42 of Pension Regulations for the Army, 1961, Part I to submit to the effect that it stipulates that unless otherwise specifically provided a disability pension consisting of service element and disability element may be granted to an officer who is invalided out of service on account of a disability which is either attributable to or aggravated by military service and the disability is assessed at 20% or more, to submit to the effect that the low medical category officer who retires on superannuation or on completion of tenure can be granted disability pension under the provisions of Regulation 53 of Pension Regulations for the Army, 1961 if he fulfills the twin eligibility

conditions as stated in Regulation-48 of the same. The respondents further submit that whether an officer fulfills these twin eligibility conditions for grant of disability pension or not determined by the competent medical authorities which recommendation however made by the medical board is only recommendatory in nature as per Rule-17(b) of Entitlement Rules to Casualty Pensionary Awards to the Armed Forces Personnel, 1982 and is subject to review by the Competent Medical Authorities as stipulated in Rules 17(a) and 27(c) thereof. The respondents further submit that the proceedings of the Medical board alongwith other medical documents are examined by the Competent Medical and Administrative Authorities and on the basis of their recommendations, the officer's claim for disability pension is either accepted or rejected and apart from relevant medical/administrative provisions, all such aspects which may have bearing on the case, for example, posting in field/High altitude/counter insurgency operations/terrorist action effects of stress and strain and other services conditions are given due consideration. The respondents submit that an officer who sustains injury/injuries in war or war like situation, counter insurgency operations/terrorist action etc is eligible for war injury pension provided the disability is assessed at 20% or more.

7. The respondents further submitted to the effect that the medical authorities at the time of RMB evaluate the disabilities individually to assess the extent to which the individuals functional capacity has been reduced and therefore composite assessment(for more than one disability) in terms of para 17A of Chapter VII of Guide to Medical Officers(MP), 2008 is made to show overall effect of disabilities on the function of individual body. The respondents thus submit that the medical authority is therefore primarily concerned with evaluation of disability with regards to its effect on function of body parts and is not involved in attaching financial benefit. The respondents further submit that the once the composite assessment by the medical authority is finalized, it is the administrative authority which classifies the disability to be a War injury/ Battle Casualty or a normal disability based on circumstances under which the injury was sustained. The respondents further submit that to remove subjectivity in granting the overall disability percentage, the concept of broadbanding was put in place vide GoI Letter dated 31 Jan 2001(Para 7.2) based on the recommendation of 5th CPC. The respondents further submit to the effect that where two types of disabilities i.e. War Injury and normal disability were involved, the Tribunal in the past has ordered rounding off composite disability and leaving to the executive

authority to divide this enhanced composite assessment between war injury and normal disability and generally, the higher element was kept as it is and balance was given as normal disability and that there was no clear policy for calculating war injury/ normal disability percentage in the composite assessment given by the RMB. The respondents have further submitted to the effect that the norms had been laid down vide MoD letter No. 16(02)/2015-D(Pen/Pol) dated 08.08.2016 and that resolution No. 17(i)/2014/D(Pen/Policy) dated 30.09.2016 was published in Gazette of India dated 18.10.2016 has extended the benefit of broadbanding to all persons retiring with disability including PMR Case, but that the provision of the same take effect from 01.01.2016. The respondents submit that considering this policy and composite assessment of 60% as given by the RMB in the instant case, WIE and DE to which the petitioner is entitled to, is calculated to the effect:-

“(a) Composite assessment of 60% rounding off to 75%.

(b) WIE @ 11-14% rounded off to 50%.

(c) Normal disability= 75%-50%= 25%”

8. The respondents thus submits that the petitioner has sought relief for grant of rounding off of DE from 60% to 75% and WIE from 11-14% to 50%, thereby asking for composite assessment of 125%

and it had been submitted by the respondents that the policy dated 08.08.2016 is beneficial to all personnel having war injury and normal disability and thus the relief as sought by the applicant for granting rounding off benefit to percentage beyond 100% cannot be accepted or otherwise such personnel will get equated with pensioners who actually have 100% disability and are bedridden.

9. The respondents thus seek that the separate rounding off of the War Injury element and disability element be not be accepted as the policy issued vide letter No. 16(02)/2015-D(Pen/Pol) dated 08.08.2016 is clear and beneficial to all.

ANALYSIS

10. On a considerations of the submissions that have been made on behalf of either side, it is essential to observe that laid down by the Hon'ble Supreme Court in *Ex. Sapper Mohinder Singh vs. UOI* in Civil Appeal No. 164/1993 and *UOI Vs. Damodaran AV*, SLP(C) No. 23727/2008 and *Ex CFN Narsingh Yadav Vs UOI & Ors.* in Civil Appeal no. 7672/2019, the opinion given by the medical authorities is entitled to be given due weight and credence and the opinion given by the medical board cannot be set aside by the administrative or financial authority without a further examination of the Armed Forces Personnel by a higher medical authority, nor without giving reasons to

set aside the previous medical opinion. It is thus apparent that in the facts and circumstances of the instant case that the disability of Primary Hypertension which had its onset in December, 2011 soon after the 18th posting of the applicant from November, 2009 to September, 2011 at Karul(Ladakh), a field area in terms of the Para-43 of the GMO(MP), 2008, itself falls within the ambit of admissibility as being attributable to and aggravated by military service. Para-43 of the GMO(MP),2008 as applicable in the instant case provides as under:-

“43. Hypertension- The first consideration should be to determine whether the hypertension is primary or secondary. If secondary, entitlement considerations should be directed to the underlying disease process (e.g. Nephritis), and it is unnecessary to notify hypertension separately.

As in the case of atherosclerosis, entitlement of attributability is never appropriate, but where disablement for essential hypertension appears to have arisen or become worse in service, the question whether service compulsions have caused aggravation must be considered. However, in certain cases the disease has been reported after long and frequent spells of service in field/HAA/active operational area. Such cases can be explained by variable response exhibited by different individuals to stressful situations. Primary hypertension will be considered aggravated if it occurs while serving in Field areas, HAA, CIOPS areas or prolonged afloat service.” (emphasis supplied).

11. Furthermore, it cannot be overlooked that the applicant in the instant case was posted inter alia as under:-

1. Jan 1980 to May 1981 at Dimapur, a field area;
2. May 1983 to June 1986 at Partapura, a field area;
3. June 1988 to June 1989 at Srilanka/ Jaipur, a field area;
4. June 1992 to February 1994, FSCA(UPTB), a field area;
5. May 1994 to May 1995 at Gangtok, a field area;
6. May 1995 to Jan 1996 at Nagaland, a field area;
7. July 1999 to July 2002 at Manasbal(J&K), a field area;
8. Oct, 2006 to April 2008 at Goalpara(Assam), a field area;
9. May 2008 to Oct 2009 at Balapur(J&K), a field area;
10. Nov 2009 to Sep 2011 at Karul(Ladakh), a field area, i.e._

prior to the onset of the disability of Primary Hypertension in December, 2011 at MH, Ambala, a peace area. In terms of Para-43 of the GMO(M.P), 2008 already adverted to herein above, it has been expressly stipulated therein that in certain cases the disease has been reported after long and frequent spells of service in field/HAA/active operational area and such cases can be explained by variable responses exhibited by different individuals to stressful situations and the facts of the instant case thus clearly falls within the said ambit of Para-43 of the GMO(M.P.), 2008. The disability of Primary hypertension in the instant case that the applicant suffers from has to be held to be aggravated due to military service and the applicant is

entitled to the grant of disability element of pension assessed @30% for life in relation thereto.

12. As regards the disability of Primary Hypothroidism, the same has been assessed with a percentage of disablement @11-14% by the RMB and has also been opined to be a constitutional disease, not related to service as per Para-38 of the Chapter-VI of GMO(MP), 2008. In as much as the said disability had been assessed with a percentage of disablement with less than 20% in terms of the verdict of the Hon'ble Supreme Court in *UOI & Ors. Vs. Wing Commandar S.P. Rathore* in Civil appeal no. 10870/2018, the said disability does not fall for consideration for assessment of the extent of net assessment for the said disability and cannot be granted.

13. As regards the disability of Splinter Injury Right Cheek, the said disability of the applicant as per the records that has been put forth as per the RMB placed on record clearly stipulates it being a Battle casualty (J&K) dated 10.05.2008 and it is also reflected in the noting sheet no. 9 of the respondents which indicates vide note-4 & 5 thereof as under:-

"4. The officer sustained splinter injury right cheek in firing in an encounter with militants on 21 Apr 2000 in OP RAKHAK(J&K). Hence the injury sustained by the Officer is held attributable to military service. The Officer is, therefore, entitled for grant of war injury

pension @14% for life and disability pension @46% for life and composite 60% for life.

5. This has the approval of AG vide note No 10 to 14 ante, the Competent Authority to sanction Disability Pension in terms of powers delegated vide Govt of India, Min of Def letter No. 4684/Dir(pen)/2001 dated 14 Aug 2001 as amended vide corrigendum dated 07 Nov 2001."

Likewise, the recommendation put forth for the grant of disability pension qua the applicant in relation to the said disability was put forth as under:-

"2. The offr is entitled to grant of war injury pension @14% for life and DP @46% for life with composite 60% for life."

which was concurred by AIFA which states as under:-

"Sub: Grant of Disability Pension in respect of IC-38319A Brig Ajay Kumar, SM, Kumaon(Superann.)

1.Ref. preceding notes. The case has been examined.

2. As per MOD letter dated 31/01/2001, no War Injury Pension is payable if disability is less than 20%. Hence no war injury pension is payable for ID (i).

3. ID(iii) onset in peace station, hence ID(iii) is held as NANA by this office and categorized as Category 'A' of Regulation 82 of PR for the Army Part-I 2008 edn.

4. ID(ii) held attributable to military service concurred in.

5. In view of the above, revised DSL may be placed on file for vetting and allotment of UO NO.

6. This has the approval of IFA (Army-Q)."

and thus the disability pension being assessed @30% for life had been approved vide noting sheet-13 of the respondents as under:-

"Brig Ajay Kumar, SM, superannuated, grant of disability pension of 30% for life, approved."

14. As has been observed by us herein above, the applicant is entitled to the grant of the disability pension in relation to the disability of Primary Hypertension which is held to be aggravated by military service and has been assessed @30% for life and the applicant is already in receipt of the disability element in relation to the disability of PIVD C6 C7 assessed @30% for life.

15. The applicant is entitled to the war injury pension even though it had been assessed with a percentage of disablement @14% for life. It is pertinent to mention that, in terms of Para 3 (a) of MoD Letter No. 16(02)/2015-D(Pen-Pol) dated 08.08.2016, that in discharge cases, the personnel discharged from service on completion of prescribed terms of engagement, the higher element i.e. the War Injury Element (WIE) shall be deducted from the composite assessment and will be paid in full, irrespective of the percentage of composite assessment and the remainder shall be calculated as normal disability element. Though, vide Para-4 of this letter dated 08.08.2016 it is provided to the effect:-

"4. The provisions of this letter shall take effect from the date of issue."

which indicates that the said letter takes effect from 08.08.2016, we are unable to accept the disparity between those who sustained the war injury prior to the date 08.08.2016 and after 08.08.2016 for the grant of the broad banding of the war injury element of pension as there is no intelligible differentia for this unreasonable classification and thus the cut off date of 08.08.2016 in the Govt. of India, MoD letter no. 16(02) / 2015 - D(Pen / Pol) is held to be invalid and unconstitutional and the benefits that accrue pursuant to the policy letter dated 08.08.2016 have to be held to be applicable to all ~~pursuance~~ ^{personnel} of the Armed Forces who have suffered from war injuries even if prior to 08.08.2016. In the instant case the applicant suffered from 3 disabilities viz. (i) PIVD C6 C7 @ 30%, for which applicant was in receipt of the disability pension, (ii) Primary Hypertension @30% and (iii) Right Cheek Injury @14% which was declared as battle casualty for which Part II order was issued on 10.05.2000. The composite assessment after calculation of these 3 disabilities works out to be 57.86% as per the formulae laid down vide MoD letter No. 16036/ RMB/ IMB/ DGAFMS/ MA (Pens) dated 14.12.2009. Accordingly, as per the illustration mentioned in case-2 (Discharge Case) vide MoD Letter No. 16(02)/2015-D(Pen-Pol) dated 08.08.2016, the War Injury Element assessed @14% for life will be deducted, and paid in full, from the composite assessment of three disabilities assessed @57.86%. The normal disability will be 43.86%(57.86 – 14) which will be rounded off to 50% for

life in terms of the verdict of the Hon'ble Supreme Court in *UOI & Ors. vs Ramavtar* in Civil Appeal No. 418/2012 and Para 7.2 of MoD letter No. 1(2)/97/D(Pen-C) dated 31.01.2001 and in so far as War Injury Element is concerned, which was assessed @14% for life will be paid in full.

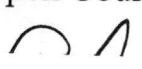
16. Thus, the disability element of pension for Splinter Injury Right Cheek which is a war injury has been so conceded by the respondents themselves, to be paid in full @14% for life. The applicant is held entitled to the grant of disability element of pension for the disability of PIVD C6 C7@30%, for which the applicant was already in receipt of disability pension, as well as to the disability of Primary Hypertension assessed @30% for life, compositely assessed at 43.86% for life, after deduction of war injury element assessed @14% for life from the composite assessment of 57.86% of three disabilities, which has to be rounded off to 50% for life in terms of the verdict of the Hon'ble Supreme Court in *UOI & Ors. vs Ramavtar* in Civil Appeal No. 418/2012 as well as to the war injury element of pension in relation to the disability of Splinter Injury Right Cheek which is to be paid in full @14% for life in terms of MoD letter dated 08.08.2016.

CONCLUSION

17. The OA 567/2016 is partially allowed. The applicant is thus held entitled to the grant of the war injury element of pension for the disability of Splinter Injury Right Cheek @14% for life as well as the grant of the disability element of pension assessed @43.86% rounded off to 50% for life for the disabilities of PIVD C6 C7 (which he is already in receipt thereof) and Primary Hypertension.

18. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of receipt of copy of this order and the amount of arrears shall be paid by the respondents, failing which the applicant will be entitled for interest @6% p.a. from the date of receipt of copy of the order by the respondents.

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


[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

/TS/