

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

OA 2930/2023

L/Hav Manoj Singh Rawat (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents
For Applicant	:	Mr. S S Pandey, Advocate
For Respondents	:	Mr. Niranjana Das, Advocate

CORAM

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIIKA CHAUBE, MEMBER (A)**

ORDER

The applicant, being aggrieved by the wrongful and discriminatory action of the respondents in fixing the rate of War Injury Element for 100% disablement at only 60% of the amount payable in cases where personnel are invalidated out of service, purportedly in terms of the policy instructions dated 10th April, 2015, has filed the present Original Application seeking the following reliefs:

(a) Call for the records on the basis of which the respondents have issued the impugned policy instructions, including the policy dated 10.04.2015, pursuant to which the applicant has been denied War Injury Element at the rate of 100% as payable in cases of invalidment, and thereafter quash the said policy instructions to the extent they restrict the applicant's entitlement to 60% of the War Injury Element instead of 100%, being discriminatory and contrary to the

judgments of the Hon'ble Supreme Court in K.J.S. Buttar and Ram Avtar;

(b) Direct the respondents to grant and pay the applicant War Injury Element at the rate of 100% at par with what is payable for 100% disablement, with effect from the date of retirement, along with all consequential arrears and interest at the rate of 18% per annum; and

(c) Pass such other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. The facts of the case, in brief, are that the applicant, L/Hav Manoj Singh Rawat, was enrolled in the Indian Army (The Garhwal Rifles) on 23rd July, 2003. Upon completion of basic military training and advance training, he was posted to the 4th Battalion, The Garhwal Rifles on 19th June, 2004. He thereafter served with various units and establishments until his discharge from service on 3st January, 2022 at his own request on compassionate grounds before completion of the prescribed service limit under Army Rule 13(3)(III)(iv) of the Army Rules, 1954. On 7th April, 2007, while serving in Op RAKSHAK in Jammu & Kashmir, the applicant sustained a fracture of the right leg and head injury. The said injury was classified as a “Battle Casualty” vide IHQ MoD (Army) letter dated 29th March, 2022 and was notified through Records. The Garhwal Rifles, Battle Casualty Part II Order

dated 1st December, 2007. Prior to his discharge, the applicant was brought before a duly constituted Release Medical Board held at INHS Dhanvantri, Port Blair on 12th August, 2021 for assessment of the cause and extent of his disability. The Release Medical Board assessed his disability at 85% for life and declared the same as attributable to military service. Upon discharge, the applicant was granted service pension along with War Injury Element comprising 50% service element and 60% War Injury Element with effect from 1st February, 2022. Aggrieved by the reduction of the War Injury Element, the applicant submitted a representation dated 25th February, 2023 seeking grant of War Injury Element at the rate of 100%. However, the respondents rejected the said request on the ground that since the applicant had opted for premature retirement, he was not entitled to War Injury Element at the rate of 100% of last emoluments, in terms of the Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare policy letter dated 10th April, 2015. Hence, the present Original Application.

3. The learned counsel for the applicant contends that the denial of War Injury Pension at the rate of 100% is illegal, arbitrary and contrary to the policy instructions and settled law. The applicant, who took premature retirement after rendering 19 years, 9 months and 15 days of service, suffered multiple disabilities during service viz. fracture of lumbar vertebra, fracture of shaft of tibia, monoplegia of the lower limb and idiopathic aseptic necrosis of bone, none of which were pre-existing at the time of enrolment. All the said disabilities were held attributable to military service and classified as “battle casualty” by the Release Medical Board. It is further contended that as held by the Hon’ble Supreme Court, premature retirement in such cases is to be treated as deemed invalidation, entitling the individual to disability/war injury element at par with invalidment cases. The distinction between invalidation and deemed invalidation has been expressly obliterated by the Hon’ble Supreme Court in Union of India and Ors. Vs. Ram Avtar (CA No. 418 of 2012, decided on 10th December, 2014).and reiterated in K.J.S. Buttar Vs. Union of India and Anr. ([2011] 11 SCC 429). Consequently,

denial of War Injury Element at the enhanced rate in premature retirement cases is arbitrary, and the applicant is entitled to War Injury Pension at 100%, as payable in invalidment cases, and not at the reduced rate of 60% under the policy dated 10th April, 2015.

4. Per contra, the learned counsel for the respondents submits that there is no illegality or irregularity in the action of the respondents, as the applicant has been granted his due entitlement strictly in accordance with the extant policy governing grant of War Injury Pension. It is contended that the applicant has been sanctioned service pension along with War Injury Element at the rate of 60% of last emoluments, which is admissible in cases of discharge on own request. The enhanced rate of 100% War Injury Element, it is argued, is admissible only to personnel who are invalidated out of service or deemed to have been invalidated out, i.e., in cases where an individual superannuated/discharged on completion of their terms of engagement in low medical category which is attributable to service. Since the applicant was discharged at his own request, he does not fall within the said category and, therefore, his

claim for War Injury Element at the rate of 100% is contrary to the existing policy. On these grounds, it is submitted that the OA is devoid of merit and liable to be dismissed with costs.

5. We have considered the rival submissions and perused the material on record.

6. It is not in dispute that the applicant was not invalidated out of service but was discharged on his own request under Army Rule 13(3)(III)(iv) of the Army Rules. The governing policy instructions dated 10th April, 2015 clearly draw a distinction between personnel who are invalidated out of service or deemed to have been invalidated out, i.e., in cases where an individual superannuated/discharged on completion of their terms of engagement in low medical category which is attributable to service and those who seek discharge or premature retirement on their own request. Relevant Para 5 of the policy letter reads as under:

“ WAR INJURY PENSION

5. The war injury element revised in terms of Para 2.3 of this Ministry's Letter dated 4.5.2009, as amended from time to time, shall not be less than 100% in case of invalidment and 60% in case of retirement/ discharge, of the minimum of the fitment table for the rank in the revised pay structure issued for implementation of recommendations of 6th CPC instead of the minimum of the pay band corresponding to pre revised

scale held by Armed Forces personnel at the time of retirement/ discharge/ invalidment for 100% disability.”

In view of the above, the Armed Forces personnel seeking discharge or pre-mature retirement are entitled to War Injury Element at the rate of 60% of last emoluments, which has admittedly been granted to the applicant.

7. The reliance placed by the applicant on the judgments of the Hon’ble Supreme Court in *Ram Avtar* (supra) and *K.J.S. Buttar* (supra) is misconceived. In *Ram Avtar* (supra), the Hon’ble Supreme Court was dealing with rounding of disability pension and cannot be applied in this case since the individual was neither invalidated out nor was in receipt of disability pension. Similarly, *K.J.S. Buttar* (supra) granted war injury pension to the applicant who suffered seven injuries of permanent nature and was invalidated out of service whereas in this case the individual sought premature discharge and is in no way a case of invalidation or deemed invalidation.

8. War Injury Pension stands on a distinct footing and is governed by specific policy provisions, which consciously restrict grant of War Injury Element at the rate of 100% only to cases of invalidment or deemed invalidment. In the present case,

the applicant was neither invalidated out of service nor discharged on account of medical unfitness, but was released on his own request. In such circumstances, the respondents were justified in granting War Injury Element at the rate of 60% in accordance with the extant policy.

9. We, therefore, find no arbitrariness, illegality or violation of settled law in the action of the respondents. The applicant has been granted all benefits admissible to him under the prevailing policy framework.

10. Accordingly, the Original Application is devoid of merit and is dismissed. No order as to costs.

Pronounced in open Court on this 2nd day of February 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

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