

**ARMED FORCES TRIBUNAL
REGIONAL BENCH
JABALPUR**

20 July 2023

CORAM :

**HON'BLE MR JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN GOPAL R, MEMBER (A)**

6.

OA 46/2019

No. 14289961N, Nk (TS) Shri Prakash Narayan Mishra

S/o Late Shri Sheetal Prasad Mishra,

R/o Khakhri Mandir, Behind S.K. Girls School,

Mohalla Goghar, Tehsil -Huzur,

District - Rewa -486001

.....Applicant

Versus

- 1. Union of India,**
Through the Secretary,
MoD, Govt of India, New Delhi.
- 2. COAS,**
IHQ of MoD (Army)
DHQ, PO New Delhi.
- 3. OIC, Signal Records,**
Jabalpur.
- 4. PCDA (P),**
Draupadi Ghat, Allahabad (U.P.)
- 5. The Chief Manager,**
CPPC, Central Bank of India,
Chandar Mukhi, Nariman Point,
Mumbai (MH)
- 6. The Branch Manager,**
Central Bank of India,
Main Branch, Amahiya Road,
Tehsil -Huzur, District -Rewa (M.P)

.....Respondents

For Applicant : Mr KC Ghildiyal, Sr. Advocate with
Mr HC Singh and Mr Pradeep Dwivedi, Advocates.

For Respondents : Mr Aakash Malpani holding brief of
Mr HS Ruprah, CGSC.

ORDER

1. The applicant was enrolled on 22.06.1972 in the Army. The applicant, had 14 years 364 days service and one day's condonation of service had been granted by the competent authority thus meeting the minimum qualifying service for pension, i.e., 15 years, before retirement.

2. Since the applicant had a disability "**Neurogenic Muscular Atrophy Lt Lower Limb**" held as aggravated by military service, with disability assessed at 30%, he had been granted disability pension as per details given below: -

(a) 01.07.1987 to 10.10.1988 @ 30% based on RMB dated 11.10.1986 held at MH, Madras.

(b) 11.10.1988 to 24.08.1998 @ 30% for 10 years, based on RSMB dated 25.08.1988 held at MH, Jabalpur.

(c) 25.08.1998 to 01.05.2003 @ 30% for 5 years, based on RSMB dated 02.05.1998 held at MH Jabalpur.

3. For subsequent period with effect from 02.05.2003, the PCDA (Pension) had granted disability pension at 30% for life vide PPO No D/RA/8781/2003 dated 09.09.2003 based on RSMB dated 09.05.2003 at MH, Jabalpur.

4. The applicant had been paid disability pension at 30% by the Pension Disbursing Agency (PDA), ie., Central Bank of India, Main Branch, Amahiya Road, Rewa (MP) till June 2014. The Counsel for the applicant avers that as per Government of India letter dated 31.01.2001, the applicant was entitled to receive the disability pension at the rate of 50% (rounded off) with effect from 01.01.1996, whereas disability pension had been paid at the rate of 30% till June 2014. The PDA had stopped the disability element of the disability pension from

July 2014 and protracted and repeated representations were unfruitful. The Pension Sanctioning Authority (PSA) i.e, PCDA (P) on 07.09.2015 as well as on 29.03.2017 had stated that as the disability records were not readily available with them, they are not able to revise disability pension.

5. Feeling aggrieved, the OA has been filed with the following prayers: -

(a) To direct the respondents to pay disability pension to the applicant at the rate of 50% with effect from 01.01.1996 and accordingly pay the difference of disability element between 01.01.1996 and June 2014.

(b) To direct the respondents to pay disability pension from July 2014 onwards at the rate of 50%.

(c) The arrears to be paid along with interest at the rate of 24% per annum.

(d) Any other direction which the Tribunal may deem just and proper in the nature and circumstances of the case.

Submission by Counsel for the Respondents

6. The Respondents have submitted that the claim regarding rounding off the disability element from 30% to 50% with effect from 01.01.1996 is not tenable as the applicant had been discharged on completion of terms and engagement and rounding off was only applicable to only those personnel who were invalidated out on medical grounds on attributable or aggravated counts as per GoI, MoD letter No 1(2)/97/D (Pen-C) dated 31.01.2001.

7. Furthermore, the PSA i.e., PCDA (P) vide their letter No AT/PSB/XII/CBI, CPPC/Court Case/2019 dated 16.10.2019 has instructed the PDA to revise the disability pension of the applicant as per details given by them with effect from 25.08.1998 to 31.12.2015 as well as from 01.01.2016. The PDA had also been instructed to pay the arrears due.

8. In addition, the Respondents have placed on record a copy of E-PPO No 157198700546 dated 12.10.2020 where in the disability element of the applicant has been rounded off to 50% with effect from 01.01.2016. Though the disability element had been rounded off to 50%, as the ibid PPO has not indicated the amount due as disability element, the same had been taken up with the PSA, vide Records, Signal letter No P/14289961/DP-6/NER dated 04.04.2023, for issue of a corrigendum PPO duly mentioned the disability element amount.

Consideration

9. With regard to the claim of the applicant for rounding off to 50% the disability element with effect from 01.01.1996, based on the authority of MoD letter No 1(2)/97/D) (Pen-C) dated 31.01.2001, we find that this claim is misplaced. The MoD letter dated 31.01.2001 deals with rounding off benefits of disability pension to those personnel who have been invalided out from Military Service on medical grounds on or after 01.01.1996. As the applicant had been discharged on completion of terms of engagement, the claim for 50% rounding off from 01.01.1996 is unsustainable.

10. Scrutiny of the PCDA (P) letter No AT/PSB/XII/CBI, CPPC/Court Case/2019 dated 16.10.2019 reveals that the PCDA (P) being the PSA had clearly instructed the PDA (Central Bank of India) to pay the applicant Disability element @ Rs 1291 for the period 01.07.2014 to 31.12.2015 and @ Rs 5529 from 01.01.2016 onwards.

11. Based on the submissions by the Counsel for the Respondents, we find that the only issue remaining is to ascertain whether the applicant had been issued with a latest disability pension corrigendum PPO indicating the disability element due, as requested by Records Signals, vide their letter No P/14289961/DP-6/NER dated 04.04.2023 and whether all arrears due have been paid.

12. The Respondents to file a compliance report regarding the same within four weeks from the date of receipt of copy of this order.
13. The OA is disposed off accordingly with liberty to the applicant to agitate on the matter, in case the grievance still persists.
14. No order as to costs.

(LT GEN GOPAL R)
MEMBER (A)

(JUSTICE RAJENDRA MENON)
CHAIRPERSON