

**Court No. 1**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**ORIGINAL APPLICATION No. 359 of 2024**

Friday, this the 14<sup>th</sup> day of November, 2025

**“Hon’ble Mr. Justice Anil Kumar, Member (J)”**

**“Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”**

No. 178782 Z CHME Ajay Kumar Singh (Retd.), son of Shiv Bahadur Singh, R/o Vill- Annapur, Post Office – Kothra Khurd, Distt – Sultanpur, Uttar Pradesh. Presently residing at Flat No. 105, Tower E1, Saryu Enclave, Sector 7D, Awadh Vihar Yojna, Near Sevai Crossing, Lucknow – 226002.

**..... Applicant**

Ld. Counsel for the Applicant : **Shri Sarvesh Kumar Verma**, Advocate

Versus

1. Union of India, through its Secretary, Ministry of Defence, New Delhi.
2. The Chief of Naval Staff, Integrated Headquarters, of Ministry of Defence (Navy), New Delhi.
3. The Logistic Officer-in-Charge, Naval Pension Office, C/o INS Tanaji Sion – Trombay Road, Mankhurd, Mumbai - 400088.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Prayagraj, Uttar Pradesh -211014.

**..... Respondents**

Ld. Counsel for the Respondents. : **Shri Kaushik Chatterjee**, Advocate  
Central Govt. Standing Counsel

**ORDER**

**“Per Hon’ble Mr. Justice Anil Kumar, Member (J)”**

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs :-

- (I) *To quash the impugn order passed by Respondent No. 3 i.e. NAVPEN order dated 10.10.2022 is being annexed as Annexure No. 1A to this Original Application.*
- (II) *To quash the approved RMB dated 22.07.2022 is being annexed as Annexure No. 2A to this Original Application.*
- (III) *To grant the disability pension @20% for life and round off to 50% giving the benefit of Govt. of India, Ministry of Defence letter dated 31.01.2001 from the next date of retirement i.e. 01.01.2023, because date of discharge of applicant is 31.12.2022.*
- (IV) *To pay the arrear of disability pension along with interest of 12% wef 01.01.2023 till it is actually paid.*
- (V) *To award any other relief as considered by this Hon’ble Tribunal deemed appropriate in favour of the applicant.*
- (VI) *To allow this OA with cost.*

2. Briefly stated, applicant was enrolled in the Indian Navy on 22.01.1993 and discharged on 31.12.2022 in Low Medical Category on fulfilling the terms of engagement after rendering 29 years, 11 months and 10 days of service. The applicant is in receipt of service pension. Before discharge from service, the Release Medical Board (RMB) held at INHS Kalyani, Visakhapatnam on 20.06.2022 assessed his disability ‘**ANTERIOR CRUCIATE LIGAMENT TEAR RIGHT KNEE (ICD NO S83.5)**’ @20% for life as **attributable to service**, which has been

reduced to 10% for life due to unwilling for surgery. The applicant's claim for grant of disability pension was rejected vide letter dated 10.10.2022. The applicant preferred First Appeal dated 25.06.2023 which too was rejected vide letter dated 12.02.2024. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded that the applicant's disability has been assessed @20% as attributable to service which has been reduced to 10% due to unwilling for surgery. The degree of disablement of cannot be reduced on the ground of unwillingness certificate given for surgery by the applicant. He pleaded that Hon'ble High Courts and various Benches of Armed Forces Tribunal have granted disability pension in similar cases, as such the applicant be granted disability element of disability pension and its rounding off to 50%.

4. On the other hand, Ld. Counsel for the respondents contended that since the disability qualifying for disability pension with duration of the applicant has been reduced to @10% for life by the RMB on the ground of unwilling for surgery by the applicant, hence in terms of Regulation 100 and 105-B of the Navy (Pension) Regulations 1964 which provides that *"(1) A sailor, who is discharged from service after he has completed that period of his engagement and is, at the time of discharge found to be suffering from a disability attributable to or aggravated by naval service may at the discretion of the competent authority be granted in addition to*

*the service pension admissible, a disability element as if he has been discharged on account of that disability, (2) The disability element of pension will be assessed on the accepted degree of disablement at the time of retirement or discharge on the basis of the rank held on the date on which they would or injury was sustained or in case of a disease on the date of the first removal from duty on account of that disease and (3) The provisions in sub-regulations (1) and (2) shall also apply to sailors discharged from service on completion of the period of their engagement and who have earned only a service gratuity”* the applicant is not entitled to disability element of disability pension. He pleaded for dismissal of the Original Application.

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents. We have also gone through the Release Medical Board proceedings as well as the records and we find that the questions which need to be answered are two folds:-

- (a) Whether the RMB can reduce the degree of disablement on the ground of unwilling for surgery?
- (b) Whether the applicant is entitled for the benefit of rounding off the disability element of disability pension?

6. With regard to first question, the Hon'ble Delhi High Court in Writ Petition (C) No. 3336 of 2025, ***Union of India & Others Versus Ex Sgt Dulal Das***, decided on 18.03.2025 has held as under:-

***“19. Once the RMB has itself arrived at the subjective opinion that the respondent’s refusal to subject himself to surgery was an acceptable refusal, given the risks of surgery and chances of persistence of the disability, it is a natural sequitur that the petitioner could not have treated the said refusal as a basis to reduce the percentage of disability from 20% to 10%.”***

7. In the instant case the disability has been assessed @ 20% for life by the RMB. At page 8 of the RMB proceedings, in the column of *“Percentage of disablement”* the RMB endorsed that *“20% (Twenty Percent)”* and in column *“Compoiste assessment for all disabilities (Max 100% with duration)”* the RMB endorsed as *10% (Ten Percent) View unwillingness for Surgery the Percentage reduced by 50%”*. It was done due to unwilling certificate given by the applicant. Further, at page 8, in para 2(f) in reply to question *“what is the probable percentage to which the disease/disablement could be reduced by operation/treatment”* the RMB has endorsed ***“ Yes percentage of disability to be reduced by 50%”***. In view of the facts and circumstances of the instant case and law laid down by the Hon’ble Delhi High Court we are of the opinion that the degree of disablement cannot be reduced by the RMB on the ground of unwilling for surgery by the applicant. Accordingly, we hold that the assessment degree of disability is @20% for life.

8. The law on the point of rounding off of disability pension is no more RES INTEGRA in view of Hon’ble Supreme Court judgment in the case of ***Union of India and Ors vs Ram Avtar & ors*** (Civil appeal No 418 of 2012 decided on 10<sup>th</sup> January 2014). In this Judgment the Hon’ble

Apex Court nodded in disapproval of the policy of the Government of India in granting the benefit of rounding off of disability pension only to the personnel who have been invalidated out of service and denying the same to the personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision is excerpted below:-

*“4. By the present set of appeals, the appellant (s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No 1(2)/97/D (Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.*

*5. We have heard Learned Counsel for the parties to the lis.*

*6. We do not see any error in the impugned judgment (s) and order(s) and therefore, all the appeals which pertain to the concept of rounding off of the disability pension are dismissed, with no order as to costs.*

*7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.*

*8. This Court grants six weeks' time from today to the appellant(s) to comply with the orders and directions passed by us.”*

9. Additionally, consequent upon the issue of Government of India, Ministry of Defence letter No. 17(01)/2017/D(Pen/Policy) dated 23.01.2018, Principal Controller of Defence Accounts (Pensions), Prayagraj has issued Circular No. 596 dated 09.02.2018 wherein it is provided that the cases where Armed Forces Pensioners who were retired/discharged voluntary or otherwise with disability and they were in receipt of Disability/War Injury Element as on 31.12.2015, their extent of disability/War Injury Element shall be re-computed in the manner given in the said Circular which is applicable with effect from 01.01.2016.

10. As such, in view of the decision of Hon'ble Supreme Court in the case of ***Union of India and Ors vs Ram Avtar & ors (supra)*** as well as Government of India, Ministry of Defence letter No. 17(01)/2017/D (Pen/Policy) dated 23.01.2018, we are of the considered view that benefit of rounding off of disability element of disability pension @ 20% for life to be rounded off to 50% for life may be extended to the applicant from the next date of his discharge.

11. In view of the above, the **Original Application No. 359 of 2024** deserves to be allowed, hence **allowed**. The impugned order, rejecting the applicant's claim for grant of disability element of disability pension, is set aside. The disability of the applicant is held @20% for life. The applicant is entitled to get disability element @20% for life which would be rounded off to 50% for life from the next date of his discharge. The respondents are directed to grant disability element to the applicant

@20% for life which would stand rounded off to 50% for life from the next date of his discharge. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

12. No order as to costs.

**(Vice Admiral Atul Kumar Jain)**  
**Member (A)**

**(Justice Anil Kumar)**  
**Member (J)**

Dated : 14 November, 2025

AKD/-