

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 517/2024

Union of India and others

.....Applicant(s)/Petitioner(s)

Through :- Mr. R.S. Jamwal, CGSC

v/s

Rajinder Kumar

.....Respondent(s)

Through :- Respondent present in person

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
25.08.2025

1. This petition, by the Union of India, is directed against an order and judgment dated 17.11.2022, passed by Armed Forces Tribunal, Regional Bench Srinagar at Jammu (“**the Tribunal**”), in O.A. No. 284/2019, titled “Rajinder Kumar v. Union of India and others”, whereby the Tribunal has allowed the O.A. filed by the respondent and held him entitled to the benefit of rounding off his pension from 20% to 50% w.e.f. 01.10.1998. The impugned judgment is assailed by the petitioners on the ground that the benefit of rounding off was not available to the respondent as he was not invalidated out of service because of injury but discharged on completing his term. The impugned judgment is also assailed on the ground that the Tribunal has not appreciated that the benefit of arrears was required to be restricted to three years preceding the filing of O.A., in view of the law laid down by the Hon’ble Supreme Court in “Union of India v. Tarsem Singh”, (2008) 8 SCC 648.

2. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the argument raised by Mr. R.S. Jamwal, learned CGSC appearing for the petitioners, with regard to disentitlement of the respondent to the benefit of rounding off on the ground that he was discharged with disability only after the completion of his term, is no longer *res integra*. The issue was threadbare discussed and decided by the Armed Forces Tribunal, Regional Bench Chandigarh, in O.A. No. 329/2010, titled “Lt. Gen. Vijay Oberoi v. Union of India and others”, along with clubbed matters including the case titled “Union of India and others v. Ram Avtar”, whereby the Tribunal, while allowing the petition, held that Army personnel having been discharged on attaining age of superannuation, on completion of tenure, or on retirement etc., if found to be suffering from disability to the extent of 20% or above, being attributable or aggravated by Army service, would be entitled to the benefit of rounding off/broad-banding at par with persons who are prematurely invalidated out. This judgment was upheld by the Hon’ble Supreme Court in Civil Appeal No. 418/2012. titled “Union of India v. Ram Avtar”, 2014 SCC Online SC 1761.
3. So far as the payment of arrears is concerned, it is seen that the respondent was discharged from service of the Indian Army on 30.09.1998, on completion of the term of his engagement, with disability at 20% held aggravated by Army service. He was initially assessed for a period of two years, however, the Re-Survey Medical Board which examined the respondent after 05.02.2000, found him suffering from disability at 20% for life. The respondent was, thus, granted a disability element of disability pension without the benefit of rounding off as envisaged under the Army Pension Regulations. The respondent accepted the disability element of

disability pension granted to him without any protest or demur. He, however, woke up from the slumber only in the year 2019 and filed O.A. No. 284/2019, claiming the benefit of rounding off his disability element from 20% to 50% with effect from the date of his discharge from Army i.e. 01.10.1998.

4. The Tribunal, in view of the judgment passed by the Hon'ble Supreme Court in Ram Avtar (*supra*), has held that the respondent is entitled to the benefit of rounding off and has also granted the relief of higher disability element of pension w.e.f. 01.10.1998. The Tribunal has, however, not taken note of the fact that there was inordinate and unexplained delay of more than two decades in approaching the Court and, therefore, in view of the clear dictum of law laid down by the Hon'ble Supreme Court in case of Tarsem Singh (*supra*), he was not entitled to arrears beyond the period of three years from the date of commencement of proceedings before the Tribunal.
5. To the aforesaid extent, we find substance in the submissions made by learned counsel for the petitioners, and for the above reasons, this petition is allowed only to the limited extent of restricting the arrears to three years prior to the filing of O.A. No. 284/2019 before the Tribunal. The judgment passed by the Tribunal is modified only to the aforesaid extent.
6. **Disposed of** accordingly.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
25.08.2025
Vishal Khajuria

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No