



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-03-2025

CORAM

THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WP No. 23504 of 2024

and

WMP.Nos.25693 & 25697 of 2024

1. The Union Of India

Rep. by the Secretary,

Ministry of Defence,

Govt. Of India, South Block,

New Delhi - 110 011.

2.The Chief of the Army Staff,

Integrated Headquarters Of Mod (Army),

South Block, DHQ Po,

New Delhi-110 011.

3.The Officer-in-Charge,

ASC Records (South),

Bangalore - 560 007.

4.The Principal Controller of Defence

Accounts

(Pensions), Draupadi Ghat, Allahabad (U.P)

Pin - 211 014.



Petitioner(s)

Vs

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1. Ex.Hon Nb. Sub.M.Sadura Giri,
Service No. 13887121 'W',
Son of late P.Mada Swamy,
Aged About 54 Years,
Door No. 6, 742/33A, Kamarajapuram
Colony, Sachiapuram District,
Tamil Nadu 626 124.

2.The Registrar,
Armed Forces Tribunal, Rudra Road,
St.Thomas Mount, Chennai 600016.

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India to call for the records dated 09.03.2021 passed in OA.No.80 of 2019 on the file of the 2nd respondent thereby quashing impugned order.

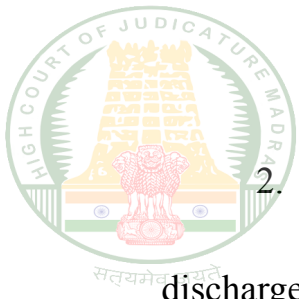
For Petitioner(s): Mr.V.Balasubramanian
Senior Panel Counsel

For Respondent(s): M/s. M.K. Sikdar for R1
R2-Tribunal

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

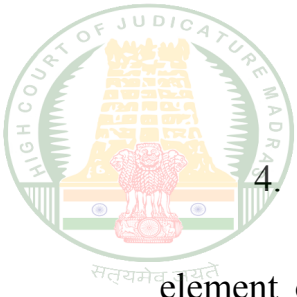
The writ petition has been filed by Union of India challenging the order dated 09.03.2021 passed in MA.No.100 of 2019 in O.A.No.80 of 2019 on the file of Armed Forces Tribunal Regional Bench, Chennai.



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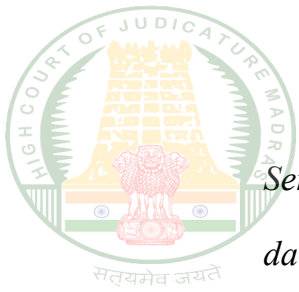
2. The first respondent enrolled in the Army on 30.08.1983 and discharged from service on 31.08.2009 in Low Medical Category due to Pulmonary Tuberculosis. The Release Medical Board assessed his disability at 20% for three years, opined that the disability was attributable to military service. Thus, service pension was granted to the first respondent. Disability element of pension was granted with effect from 01.09.2009 to 17.02.2012. On 16.07.2012, the Resurvey Medical Board was held and disability granted for life, without granting the benefit of broad banding. Thus, the first respondent approached the Armed Forces Tribunal.

3. The Broad banding of disability element was considered by the Hon'ble Supreme Court of India and the benefit was extended *vide* order dated 10.12.2014. Pursuant to the Judgment of the Apex Court, the Government of India, Ministry of Defence, Department of Ex-servicemen Welfare *vide* order dated 18.04.2016, extended the benefit of broad banding disability element.



4. In the present case, the first respondent was granted disability element of pension from the date of discharge in the year 2009 and it was extended till 17.02.2012. Thereafter, a Resurvey Medical Board was held and disability element was granted for life. That being the factum, the benefit of the Government of India Order dated 18.04.2016 is to be extended to the first respondent. The Tribunal referred the order of the Government of India in paragraph No.7, which reads as under:

"7. The issue relating to the grant of rounding off benefit of the disability element of pension is no longer res integra in view of the order passed by the Hon'ble Supreme Court in Ram Avtar (supra), wherein the Hon'ble Supreme Court has directed the respondents to grant the said benefit also to the personnel who have not only been invalidated out from service but to other categories also. The Government of India has also decided to implement the aforesaid direction of the Hon'ble Supreme Court to grant the benefit of 'broad banding' of the disability element of pension to the Armed Forces Personnel, who have retired or been discharged on completion of the terms of engagement with disability aggravated by or attributable to military service from the date mentioned in the respective Court Orders, which has been communicated by the Under Secretary to the Government of India, Ministry of Defence, Department of Ex-



Servicemen Welfare vide letter F.No.3(11)2010-D (Pen/Legal)-Pt. V dated 18.04.2016 to the Chiefs of all three services. The relevant

WEB COPY *portions of the letter are set out below:*

"The Hon'ble Supreme Court vide order dated 10.12.2014 dismissed more than 800 Civil Appeals tagged with Civil Appeal No.418 of 2012 filed by the Union of India Vs. Ram Avtar challenging grant of broad banding of disability element by AFTs to Armed Forces personnel other than "invalided out" from service. The Hon'ble Supreme Court ruled that an Armed Force Personnel retired on completion of tenure with disability aggravated by or attributable to Military Service is eligible for broad banding of Disability Pension / Element.

2.Accordingly, approval of competent authority is hereby conveyed for implementation of Court/AFTs orders granting broad banding of disability element to an Armed Force Personnel retired or discharged on completion of terms of engagement with disability aggravated by or attributable to Military Service from the date mentioned in respective Court orders.

This being the position, we are of the view that the applicant is entitled to the benefit of broad banding off of the disability element of pension from 20% to 50%."



5. In view of the above legal position, the eligibility of the first respondent has been rightly considered by the Arms Tribunal. Therefore, this

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Court do not find any infirmity. Thus, the order impugned dated 09.03.2021 passed in MA.No.100 of 2019 in O.A.No.80 of 2019 on the file of Armed Forces Tribunal Regional Bench, Chennai stands confirmed and the Writ Petition is **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.SUBRAMANIAM J.) (K.RAJASEKAR J.)

07-03-2025

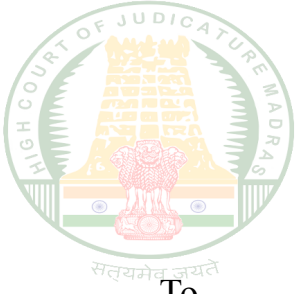
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To
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S.M.SUBRAMANIAM J.
AND
K.RAJASEKAR J.

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