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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-1751-2025 (O&M)

Date of Decision: 23.01.2025

UNION OF INDIA

. . . . Petitioner

Vs.

JC 428517 EX SUBEDAR ANOKH SINGH AND ANOTHER

. . . . Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Charanjit Bakhshi, Sr. Panel Counsel, UOI
for the petitioner.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The present writ petition has been filed assailing the judgment passed by the Armed Forces Tribunal (for short 'AFT') way back on 09.08.2018 on the ground that the concerned Army person has approached the AFT after a delay, and therefore he submits that the AFT ought not have granted the rounding off disability pension to 50% in terms of judgment rendered by the Supreme Court in *Civil Appeal No.418 of 2012 titled as 'Union of India and others vs. Ram Avtar'* from the date disability pension was awarded i.e. 01.07.2007. He submits that it should be 3 years from the date respondent No.1 had claimed.
2. Pension is neither a bounty nor a charity extended to a retired Army Personnel who has suffered disability during the course of service, and on account of aggravation of disability, is given disability pension.
3. In the present case, respondent No.1 was granted 30% disability pension for life with effect from 01.07.2007.

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4. Several orders were passed by the AFT holding that the percentage of disability has to be rounded off to 50%, 75% and 100% considering that initially the concerned Military persons were invalidated on account of disability less than the same. The orders passed by the AFT were ultimately confirmed by Supreme Court in **Ram Avtar** (supra), whereby several civil appeals were decided along with it. Holding the orders passed by the AFT to be in consonance with law, it was held as under:

“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.”

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5. Thus, from the tenor of the order passed by the larger Bench of the Supreme Court, it is apparent that the judgment was *in rem* and not *in personam*.
6. Keeping in view thereto, the Union of India and its authorities were bound to extend the benefit of rounding off to all the existing pensioners, and their disability pension was required to be enhanced to 50%, 75% and 100% wherever the disability was found to be less than 50%, 75% and 100%, as the case may be.
7. We are pained to observe that the Union of India has failed to perform its duties and issue directions to the Pension Department to act accordingly. The pensioners, whose rights were crystallized by the judgment passed by the Supreme Court in ***Ram Avtar*** (supra), had to approach the various AFTs for claiming the rounding off. In circumstances, their approaching the AFT cannot be said to be an act of delay or laches on their part, but is a case where the Union of India and its authorities have failed to perform their duty in implementing the judgment of the Supreme Court after they have lost, and the issue was finally crystallized.
8. A look at the order (supra) reflects that the Supreme Court had in clear terms directed the High Courts as well as the Tribunals to grant relief to the pensioners. Thus, all the existing cases were also directed to be disposed of in the same terms. However, it seems that the directions of the Supreme Court have been left to be taken care of by the Union of India.
9. In another three days, we are going to celebrate the 76th Republic Day, and the entire celebrations of Independence and Republic Day are

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basically on account of our Army Forces performing strenuous duties at the borders and even challenging the counter-terrorism. The Union of India and its authorities are therefore required to be alive to their situations. They are disciplined people who are in the age of 80s and above, and are coming before us and before the AFTs for claiming their rights, which ought not have been done as the State being a welfare State is required to perform its duties and provide the relief, once it has been so entitled by the Supreme Court.

10. We, therefore, hold such approach adopted by the Union of India through the Army authorities to be wholly unjustified and an act of attempting to flout the Supreme Court's orders passed in *Ram Avtar* (supra).
11. It is also noticed that the order under challenge before us was passed by the AFT way back in 2018, and has not been implemented. We have no clue as to why the order was not implemented. The concerned authorities would have to be accountable in such matters.
12. The writ petition filed by the petitioners is accordingly dismissed.
13. All pending applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

23.01.2025

Mohit goyal

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No