

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4205-4206/2023

COLONEL MAHINDER KUMAR ENGRS. (RETD.)

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

O R D E R

1. Heard the learned counsel appearing for the parties.
2. The appellant was commissioned to the Indian Army on 6th September, 1970. In 1971 India-Pakistan war, the appellant sustained mine blast injuries while carrying on the operational activities. The right leg of the appellant below the knee was amputated and he was fitted with prosthesis. He superannuated on 31st March, 1998 with war injury element of disability pension at the rate of 60% for life.
3. On 16th March, 2022, the appellant filed an Original Application before the Armed Forces Tribunal (for short, "the Tribunal") seeking enhancement of the war injury element of disability pension from 60% to 75% with effect from 1st April, 1998 along with 10% interest per annum. The appellant placed reliance on the recommendations of the Fifth Pay Commission.
4. By the impugned order dated 10th November, 2022, the Tribunal allowed the Original Application by passing the following order:

"8. In view of the above, this OA is allowed and respondents are directed to grant benefit of rounding off war injury element of disability pension from 60% to 75% for life with effect from 01.04.1998. Necessary corrigendum PPO be issued and the arrears be paid within three months of receipt of a copy of this order."

5. The learned counsel appearing for the appellant submits that

as the appellant was found entitled to disability pension at the rate of 75% for life with effect from 1st April, 1998, the interest ought to have been granted by the Tribunal. The learned ASG appearing for the respondents submits that though the appellant was not entitled to get the relief prior to 1st January, 2016, it is only because the appellant sustained injuries during India-Pakistan war, that the respondents did not challenge the impugned order.

6. The fact remains that the entitlement of the appellant as granted by the Tribunal was not challenged by the respondents. It is true that the Original Application was belatedly filed on 6th March, 2022.

7. In our view, the appellant ought to have been granted the interest at the rate of 6% per annum on the differential amount, as directed to be paid by the Tribunal in terms of paragraph 8 of the impugned order, with effect from 17th March, 2019 till the date of payment of arrears. Ordered accordingly. We grant time of three months to the respondents to pay the interest amount.

8. The Appeals are, accordingly, partly allowed on the above terms.

.....J.
(ABHAY S. OKA)

.....J.
(PANKAJ MITHAL)

.....J.
(AHSANUDDIN AMANULLAH)

NEW DELHI;
SEPTEMBER 19, 2024.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSCIVIL APPEAL NO(S).4205-4206/2023

COLONEL MAHINDER KUMAR ENGRS. (RETD.)

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

(IA No. 50586/2024 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 19-09-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PANKAJ MITHAL
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAHFor Appellant(s) Mr. Rakesh Yadav, Adv.
Mr. Shree Pal Singh, AORFor Respondent(s) Mrs. Aishwarya Bhati, A.S.G.
Mr. R. Bala, Sr. Adv.
Mr. Mukesh Kumar Maroria, AOR
Mr. Shlok Chandra, Adv.
Mr. Navanjay Mahapatra, Adv.
Mr. Sachin Sharma, Adv.
Ms. Ruchi Gour Narula, Adv.
Dr. Arun Kumar Yadav, Adv.
Mr. Nakul Joshi, Adv.
Ms. Shreya Jain, Adv.
Dr. N. Visakamurthy, Adv.UPON hearing the counsel the Court made the following
O R D E R

The Appeals are partly allowed in terms of the signed order.

Pending application stands disposed of accordingly.

(ASHISH KONDLE)
COURT MASTER (SH)(AVGV RAMU)
COURT MASTER (NSH)

[THE SIGNED ORDER IS PLACED ON THE FILE]