

**COURT No.1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

228.

OA 1677/2016

Lt. Col Shashi Chaudhari (Retd.) & Ors Applicants
Versus
Union of India &Ors. Respondents

For Applicants : Mr. Anil Srivastava, Advocate
For Respondents : Mr. Shyam Narayan, Advocate for R 1,3 & 7
Mr. Prabodh Kumar, Advocate for R 4 & 5
Mr. S.D Windlesh, Advocate for R 2,5 & 8

CORAM:

HON'BLE MR. JUSTICE VIRENDER SINGH, CHAIRPERSON
HON'BLE LT. GEN. SANJIV LANGER, MEMBER (A)

ORDER
30.08.2017

In this O.A., the prayer is to broad-band the disability/war injury element of pension, which the applicants are presently getting at the rates shown in Column No.3 of the Table below, on the basis of the Government notification dated 31.01.2001, as well as the decision of the Hon'ble Supreme Court in *Union of India and others v. Ram Avtar* in C.A No. 418 of 2012 dated 10.12.2014.

2. The Table below contains (2) the names of the applicants, (3) the percentage of disability/war injury element of pension presently they are getting, (4) the percentage of disability/warinjury element of pension to which it is to be broad banded, (5) the date of retirement/release/discharge and (6) the date from which the disability/war injury element of pension is to be broad-banded.

| | | Disability / | Dsability/W | Date | Date of Effect |
|--|--|--------------|-------------|------|----------------|
|--|--|--------------|-------------|------|----------------|

| Sl. No. | Name of the Applicants | war injury Element of Pension drawn | war Injury Element of Pension broad banded | of Retirement/ Release/ Discharge | of broad-banded disability/ war injury element of pension | |
|---------|--|-------------------------------------|--|-----------------------------------|---|---------------------------------|
| | | | | | 3 Years prior to date of filing of OA | Date of Retirement or Discharge |
| (1) | (2) | (3) | (4) | | (5) | (6) |
| 1. | SHASHI CHAUDHRI | 20% | 50% | 31/03/90 | 05.12.16 | |
| 2. | PILLA SEETHA RAMAIAH | 30% | 50% | 01/03/01 | 05.12.16 | |
| 3. | K A JEEVAN KUMAR | 20% | 50% | 01/09/06 | 05.12.16 | |
| 4. | MOLAKATALLA VARADA RAJ | 20% | 50% | 31/08/06 | 05.12.16 | |
| 5. | GIRISH GOGIA | 20% | 50% | 31/08/14 | | 01.09.14 |
| 6. | PUNEET TEWARI | 40% | 50% | 31/01/13 | 05.12.16 | |
| 7. | ARAVI ND MOHAN RATURI | 20% | 50% | 31/12/02 | 05.12.16 | |
| 8. | VIJAYASINGH JAI SINGH | 30% | 50% | 30/09/03 | 05.12.16 | |
| 9. | S D CHANDRA SHAKER | 30% | 50% | 30/06/13 | 05.12.16 | |
| 10. | SATINDER PAL SINGH PURI | 30% | 50% | 31/01/14 | | 01.02.14 |
| 11. | VIRPAL SINGH | 20% | 50% | 31/08/03 | 05.12.16 | |
| 12. | L N SUBRAMANYAM | 20% | 50% | 01/03/02 | 05.12.16 | |
| 13. | SATISH CHANDRA SHARMA | 20% | 50% | 31/07/06 | 05.12.16 | |
| 14. | RAM GOPAL DHAKA | 20% | 50% | 31/01/97 | 05.12.16 | |
| 15. | MENON THALAPILLIL KRISHNAMENON SETHUMAMADHAVAN | 30% | 50% | 17/06/97 | 05.12.16 | |
| 16. | PRADEEP KUMAR SINGH | 20% | 50% | 31/08/11 | 05.12.16 | |
| 17. | SATISH KUMAR SINHA | 20% | 50% | 31/12/11 | 05.12.16 | |
| 18. | BHASKARAN PREMKUMAR PILLAI | 20% | 50% | 31/01/11 | 05.12.16 | |
| 19. | PRAKASH GOVIND DEVAL | 20% | 50% | 18/02/97 | 05.12.16 | |
| 20. | SHIVA SEWAK PATEL | 20% | 50% | 30/06/08 | 05.12.16 | |
| 21. | SUBRATAO CHAKRAVARTY | 30% | 50% | 30/9/07 | 05.12.16 | |
| 22. | UMENDER SINGH THAKUR | 40% | 50% | 30/06/91 | 05.12.16 | |
| 23. | RAJ KUMAR RAHUL | 20% | 50% | 30/06/12 | 05.12.16 | |
| 24. | AJAY KUMAR | 40% | 50% | 31/07/10 | 05.12.016 | |
| 25. | RAJINDER SING HAHUKJA | 20% | 50% | 31/12/01 | 05.12.16 | |
| 26. | NANDAN SINGH DHAPOLA | 70% | 75% | 31/12/09 | 05.12.16 | |
| 27. | JAGADAMBA PRASAD | 30% | 50% | 30/06/07 | 05.12.16 | |
| 28. | SANJIV SEHGAL | 30% | 50% | 28/02/11 | 05.12.16 | |
| 29. | ANUP KUMAR GUPTA | 20% | 50% | 30/06/08 | 05.12.16 | |
| 30. | ARVIND KUMAR NEGI | 30% | 50% | 31/08/05 | 05.12.16 | |
| 31. | M SMOORJANI | 60% | 75% | 31/08/04 | 05.12.16 | |
| 32. | LAKSHMANAN SHANMUGA SUNDARAM | 70% | 75% | 31/05/10 | 05.12.16 | |
| 33. | JOSEPH MANOHAR THOMAS | 50% | 75% | 31/01/06 | 05.12.16 | |
| 34. | ASHOK KUMAR JHA | 20% | 50% | 01/09/01 | 05.12.16 | |
| 35. | SANGRAM SINGH MANKOTIA | 60% | 75% | 31/08/2011 | 05.12.16 | |
| 36. | SANGANAGOUDA A DHAWALGI | 20% | 50% | 23/11/2007 | 05.12.16 | |
| 37. | VARIGONDA VENKATA SIVA RAO | 30% | 50% | 31/03/2002 | 05.12.16 | |
| 38. | RAJIV KUMAR | 20% | 50% | 13/06/1983 | 05.12.16 | |
| 39. | BHASKARAN KUTTY CHANOLIRAYANPATT | 30% | 50% | 31/05/2007 | 05.12.16 | |
| 40. | NARESH INDER SINGH | 40% | 50% | 31/01/2005 | 05.12.16 | |
| 41. | SATISH CHANDRA | 20% | 50% | 31/05/2012 | 05.12.16 | |
| 42. | S C JOSHI | 40% | 50% | 31/03/2001 | 05.12.16 | |
| 43. | G R NIHALANI | 40% | 50% | 05/12/2000 | 05.12.16 | |
| 44. | S M MORE | 30% | 50% | 31/07/2003 | 05.12.16 | |
| 45. | BASANT KUMAR NAUTIYAL | 40% | 50% | 31/01/1985 | 05.12.16 | |
| 46. | KOTHAPALLI RAM MOHAN RAO | 30% | 50% | 31/05/2003 | 05.12.16 | |
| 47. | DALIP SINGH BISHT | 30% | 50% | 01/02/2003 | 05.12.16 | |
| 48. | RAM UJAGAR MISRA | 30% | 50% | 01/08/2001 | 05.12.16 | |
| 49. | DINESH CHANDRA GOYAL | 20% | 50% | 18/03/2011 | 05.12.16 | |
| 50. | NARENDER SINGH SAHI | 40% | 50% | 01/11/2000 | 05.12.16 | |
| 51. | SAMARENDRA KUMAR DAS | 20% | 50% | 01/06/2000 | 05.12.16 | |
| 52. | RAJINDER SINGH, SM | 40% | 50% | 30/04/2012 | 05.12.16 | |
| 53. | VISHNU BABANRAO HAKIM | 30% | 50% | 31/08/2006 | 05.12.16 | |
| 54. | JAI KUMAR NAIR | 20% | 50% | 31/01/2015 | | 01.02.15 |
| 55. | RUDRA SINGH | 20% | 50% | 31/08/2011 | 05.12.16 | |

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|------|------------------------------|-----|-----|------------|----------|------------|
| 56. | SANJAY SINGH TOMAR | 30% | 50% | 08/07/2007 | 05.12.16 | |
| 57. | RAGHWENDRA SINGH | 20% | 50% | 01/01/2002 | 05.12.16 | |
| 58. | KAPOOR SINGH GREWAL | 60% | 75% | 30/06/2004 | 05.12.16 | |
| 59. | MILAN LALIT KUMAR NAIDU | 20% | 50% | 31/12/2008 | 05.12.16 | |
| 60. | YOGENDERA SINGH NEGI | 30% | 50% | 29/02/2008 | 05.12.16 | |
| 61. | HARI OM SABERWAL | 20% | 50% | 31/08/2007 | 05.12.16 | |
| 62. | PRAKASH KUMAR M P | 50% | 75% | 30/04/2016 | | 01.05.2016 |
| 63. | S P MALHOTRA | 30% | 50% | 01/07/1989 | 05.12.16 | |
| 64. | D K NARASIMHA NAIK | 20% | 50% | 01/10/2001 | 05.12.16 | |
| 65. | M RAGHAVAN | 30% | 50% | 01/06/2006 | 05.12.16 | |
| 66. | SURENDRANATH K | 30% | 50% | 31/12/2007 | 05.12.16 | |
| 67. | THANKACHAN KJ | 30% | 50% | 30/11/2010 | 05.12.16 | |
| 68. | SATCHITHANANTHAM ASHOK KUMAR | 20% | 50% | 31/12/2012 | 05.12.16 | |
| 69. | RADHEY SHYAM | 50% | 75% | 31/01/2001 | 05.12.16 | |
| 70. | NEERAJ KUMAR SINGH TOMAR | 20% | 50% | 28/2/2014 | | 01.03.14 |
| 71. | AS POOVAIAH | 30% | 50% | 01/03/2007 | 05.12.16 | |
| 72. | GEORGE THOMAS PUTHENVEETIL | 30% | 50% | 31/05/2011 | 05.12.16 | |
| 73. | DEVA DAS JESUDAS | 30% | 50% | 01/07/1989 | 05.12.16 | |
| 74. | RANJIT SINGH CHAUHAN | 50% | 75% | 31/12/2004 | 05.12.16 | |
| 75. | RAM MAHESH SHARMA | 30% | 50% | 01/06/2001 | 05.12.16 | |
| 76. | PA BALA KRISHNAN | 40% | 50% | 01/08/2001 | 05.12.16 | |
| 77. | PS PRAKASH | 20% | 50% | 01/01/2004 | 05.12.16 | |
| 78. | R VENKATARAMAN | 30% | 50% | 01/06/2007 | 05.12.16 | |
| 79. | RAJESH KUMAR SAXENA | 20% | 50% | 31/05/2011 | 05.12.16 | |
| 80. | JAGDISH PRASAD YADAV | 20% | 50% | 30/11/2010 | 05.12.16 | |
| 81. | DEVI SINGH CHAUHAN | 60% | 75% | 01/04/2008 | 05.12.16 | |
| 82. | DURGADAS MUNSHI | 20% | 50% | 01/02/2002 | 05.12.16 | |
| 83. | KANGADA MUTHAPPA NANDA | 20% | 50% | 31/10/2007 | 05.12.16 | |
| 84. | P N SRIVASTVA | 30% | 50% | 30/09/2007 | 05.12.16 | |
| 85. | DANDU HARINARAYANA REDDY | 20% | 50% | 29/02/2004 | 05.12.16 | |
| 86. | PVS RAO | 40% | 50% | 31/08/2013 | 05.12.16 | |
| 87. | MAHESH ANAND | 30% | 50% | 30/06/2014 | | 01.07.14 |
| 88. | GOVIND SINGH | 20% | 50% | 31.12.2007 | 05.12.16 | |
| 89. | K SRINIWASAN | 30% | 50% | 31/12/2007 | 05.12.16 | |
| 90. | RAJ KUMAR SHARMA | 60% | 75% | 30/09/2014 | | 01.10.14 |
| 91. | JAMSHED HUSAIN | 20% | 50% | 31/03/2008 | 05.12.16 | |
| 92. | KULBHUSHAN GUPTA | 30% | 50% | 30/11/2006 | 05.12.16 | |
| 93. | R C DABRAL | 30% | 50% | 01/08/1996 | 05.12.16 | |
| 94. | UTTAM KUMAR SAHA | 50% | 75% | 28/02/2004 | 05.12.16 | |
| 95. | RAVAL NISHITH KIRTIRAM | 20% | 50% | 29/02/2000 | 05.12.16 | |
| 96. | INDER SINGH | 40% | 50% | 31/08/2005 | 05.12.16 | |
| 97. | SATNAM SINGH | 30% | 50% | 28/02/2007 | 05.12.16 | |
| 98. | PADALA GANAPATHY | 20% | 50% | 31/03/1998 | 05.12.16 | |
| 99. | KALWANT SINGH | 30% | 50% | 31/01/2002 | 05.12.16 | |
| 100. | CHANDRAN T V | 20% | 50% | 08/01/2011 | 05.12.16 | |
| 101. | MAJ BHASKAR R | 40% | 50% | 01/04/2012 | 05.12.16 | |
| 102. | P NARASIMHA RAO | 20% | 50% | 30/09/1986 | 05.12.16 | |
| 103. | TATIPAKA CHANDRA RAO | 20% | 50% | 31/01/1979 | 05.12.16 | |
| 104. | TUTA BHUJANGA RAO | 30% | 50% | 01/07/2002 | 05.12.16 | |
| 105. | JAMMULLA CHINNA RAMAIIH | 30% | 50% | 10/01/2005 | 05.12.16 | |
| 106. | GANGULA ROSAIAH | 20% | 50% | 31/03/2007 | 05.12.16 | |
| 107. | RAMESH CHAND | 30% | 50% | 31/01/2012 | 05.12.16 | |
| 108. | VISWESWARA RAO | 30% | 50% | 31/03/2000 | 05.12.16 | |
| 109. | SAMUEL K | 20% | 50% | 12/12/1997 | 05.12.16 | |
| 110. | RAGHAVAN NIKKUNNATH | 20% | 50% | 09/01/1999 | 05.12.16 | |
| 111. | JALAPATI SREENIVASULU | 20% | 50% | 31/10/1986 | 05.12.16 | |
| 112. | MUPPAVARAPU M KRISHNA RAO | 30% | 50% | 30/11/2015 | | 01.12.15 |
| 113. | SHRI BHAGWAN SHARMA | 30% | 50% | 31/05/2002 | 05.12.16 | |
| 114. | JANG BAHADUR THAPA | 20% | 50% | 08/11/1992 | 05.12.16 | |
| 115. | ANAND SINGH | 20% | 50% | 31/07/1998 | 05.12.16 | |
| 116. | JAGATAMBA PRASAD | 20% | 50% | 01/01/2003 | 05.12.16 | |
| 117. | NEKURI MUTYALU | 20% | 50% | 31/10/1989 | 05.12.16 | |
| 118. | DASARI BALAVENKATA SUBBAIAH | 20% | 50% | 10/01/2001 | 05.12.16 | |
| 119. | VEMPALI KRISHNA MURTHY | 20% | 50% | 31/05/2001 | 05.12.16 | |
| 120. | GUNGA DAVEEDU | 20% | 50% | 30/06/1991 | 05.12.16 | |
| 121. | THODUVAI KUMARAN | 20% | 50% | 01/01/1981 | 05.12.16 | |
| 122. | PURAN LAL | 30% | 50% | 31/12/1981 | 05.12.16 | |
| 123. | MITHI REDDY SIMHACHALAM | 20% | 50% | 12/04/1982 | 05.12.16 | |
| 124. | N C BORAH | 30% | 50% | 08/01/1997 | 05.12.16 | |
| 125. | SANKARA PILLAI R | 30% | 50% | 11/01/1994 | 05.12.16 | |
| 126. | PALLI DHARMA RAO | 30% | 50% | 09/01/2002 | 05.12.16 | |

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|-------|---------------------------------------|-----|-----|------------|----------|----------|
| 127 | SANATAM OM SREERAMA KRISHNA MURTHY | 30% | 50% | 30/04/1989 | 05.12.16 | |
| 128 | SURENDRA KUMAR RAI | 30% | 50% | 30/11/2005 | 05.12.16 | |
| 129 | PO SAMUEL | 20% | 50% | 31/07/1979 | 05.12.16 | |
| 130 | DEVINDER SINGH | 20% | 50% | 30/04/2015 | | 01.05.15 |
| 131 | SMT CHITRA SASIKUMAR | 30% | 50% | 31/05/2003 | 05.12.16 | |
| 132 | SMT G VENKATA LAKSHAMMA | 20% | 50% | 05/01/1986 | 05.12.16 | |
| 133 | K PARTHASARATHY | 50% | 75% | 28/02/2001 | 05.12.16 | |
| 134 | RAM KAWAL | 20% | 50% | 30/04/1998 | 05.12.16 | |
| 135 | INDRANIL BHATTACHARYA | 30% | 50% | 31/10/2009 | 05.12.16 | |
| 136 | B K DAS | 30% | 50% | 30/06/2007 | 05.12.16 | |
| 137 | C. SHANMUGHAM | 20% | 50% | 31/01/2006 | 05.12.16 | |
| 138 | RAVI PRAKASH | 20% | 50% | 31/10/1999 | 05.12.16 | |
| 3 139 | DEVENDRA KUMAR AGNIHOTRI | 30% | 50% | 30/01/2009 | 05.12.16 | |
| 140 | MANOJ KUMAR | 20% | 50% | 28/02/2009 | 05.12.16 | |
| 141 | RAMESH CHANDRA | 20% | 50% | 31/05/2008 | 05.12.16 | |
| 142 | ABHAY KUMAR RAI | 50% | 75% | 31/08/2013 | 05.12.16 | |
| 143 | GANTYADA APPA RAO | 20% | 50% | 31/01/1982 | 05.12.16 | |
| 144 | K KONDAL RAO | 20% | 50% | 30/09/2005 | 05.12.16 | |
| 3 145 | PRASHU RAM | 30% | 50% | 31/03/2004 | 05.12.16 | |
| 146 | JAGADANANDA BRAHMA | 60% | 75% | 31/03/2004 | 05.12.16 | |
| 147 | RV IYER | 20% | 50% | 30/09/2013 | 05.12.16 | |
| 148 | MILIND PANDURANG SURANGE | 20% | 50% | 30/11/2015 | | 01.12.15 |
| 149 | MANOJKUMAR GAJENDRA MEHTA | 30% | 50% | 30/11/2012 | 05.12.16 | |
| 150 | INDRA PAL SINGH | 30% | 50% | 31/03/1991 | 05.12.16 | |
| 151 | K GOVINDAN NAIR | 20% | 50% | 31/01/2001 | 05.12.16 | |
| 152 | RAJANEESAN K | 20% | 50% | 31/03/2011 | 05.12.16 | |
| 153 | RAJYA PAL | 30% | 50% | 31/03/2004 | 05.12.16 | |

T3. There is no dispute with regard to the date of commissioning of the applicants and their retirement/discharge from service. Also, there is no dispute with regard to the fact that the applicants are presently getting disability/war injury element of pension at the rate shown in Col. No. 3 of the Table. Applicant Nos. 131 and 132 are widows, who claim the benefit of broad banding of their husbands' war injury/disability element of pension till the respective dates on which their husbands expired.

4. The learned counsel for the applicants has submitted that since the issue relating to the grant of benefit of broad-banding to persons other than those who are invalided out of service, is no longer *res integra*, in view of the judgment of the Hon'ble Supreme Court in *Ram Avtar* (supra), the respondents cannot deny the benefit of "broad banding" of the disability/war injury element of pension to the applicants.

5. The learned counsel for the respondents, on the other hand, has submitted that since the applicants were not invalided out from service, they

are not entitled to the benefit of "broad banding" on the basis of the Government notification dated 31.01.2001.

6. We are aware that the issue, relating to grant of the benefit of "broad banding" pursuant to the Government notification dated 31.01.2001 to persons other than those who are invalided out from service, is no longer *res integra*, since the Hon'ble Supreme Court in the judgment in *Ram Avtar* (supra) has already held that persons who are not invalided out of service are also entitled to the benefit of the aforesaid decision of the Government dated 31.01.2001.

7. Having regard to the undisputed fact that the applicants are getting disability/war injury element of pension at the rate of shown in Column No. 3 of the Table, we direct the respondents to grant them the benefit of "broad banding" also, at the rate shown in Column No. 4 of the Table. The arrears shall be paid to the appellants, either from the date of their retirement/discharge or for a period of three years prior to the date of filing of the O.A. i.e. as shown in Column Nos.5 and 6, whichever is later, subject to verification by the respondents. In the case of Applicant Nos. 131 and 132, who are widows, they are eligible for the benefit of broad banding only till the respective date of death of their husbands, provided the date is within the last three years from the date of filing of the instant O.A, which shall be verified by the respondents.

8. The respondents shall comply with this order within four months from the date of receipt of a copy of this order, failing which they shall pay interest @ 8% per annum on the entire arrears till the date of actual payment, in each case as relevant.

9. The O.A. is accordingly allowed. No costs.

**(VIRENDER SINGH)
CHAIRPERSON**

**(SANJIV LANGER)
MEMBER (A)**

Alex/Sp/Vk