

COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

66.

OA 1402/2022

Col Sanjeev Dhoundiyal (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

:

Mr. Manoj Kr Gupta, Advocate

For Respondents

:

Mr. Harish V Shankar, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

O R D E R
20.11.2023

OA 1402/2022

Invoking the jurisdiction of this Tribunal under Section 14, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

(a) To direct the respondents to grant disability element of disability pension @ 30% broad banded to 50% in terms of judgment of the Hon'ble Supreme Court in CA 418/2012 UoI vs Ram Avtar decided on 10 Dec 2014, by treating the disabilities as attributable/aggravated by the Military service in terms of this Hon'ble Apex Court Order in Dharamvir Singh(Supra), Rajbir Singh & Ors(Supra) relied upon by this Hon'ble AFT in identical Orders, placed at Annexure No. and/or

(b) Quash and set aside the impugned order and RMB proceedings to the extent it denied disability elements to the applicant and direct the respondents to pay due arrears of disability pension with interest @ 10% p.a. with effect from the date of retirement; and/or

(c) To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.

2. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records. The composite disability for the ailment has been assessed at 30%.

3. Keeping in view the consistent stand taken by this Tribunal based on the law laid down by the Hon'ble Supreme Court in the case of *Dharamvir Singh Vs. Union of India and others* [(2013) 7 SCC 316] that Primary Hypertension may arise even in a peace area due to stress and strain of service, we see no reason not to allow the prayer of the applicant with regard to the disability Primary Hypertension, which has been assessed by the competent Medical Board @ 30%.

4. The respondents are directed to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement, i.e., 31.01.2022, in

terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No.418/2012) decided on 10.12.2014.

5. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge, i.e, 31.01.2022 and direct the respondents to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order, failing which the applicant shall be entitled to interest @ 6% per annum till the date of payment.

6. No order as to costs.

[RAJENDRA MENON]
CHAIRPERSON

[P.M. HARIZ]
MEMBER (A)

1. Vide our orders of even date, we have allowed the OA. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007, to the Hon'ble Supreme Court.

2. Heard learned counsel for the respondents, we find no question of law much less any question of law of general public

importance involved in the matter to grant leave to appeal. Hence,
the prayer for grant of leave to appeal is declined.

[RAJENDRA MENON]
CHAIRPERSON

[P. M. HARIZ]
MEMBER (A)

Neha
OA 1402/2022