

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

67.

OA 1496/2022

Ex Nb Sub Haridaya Nand Kushwaha
Versus
Union of India & Ors.

... Applicant

... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Rajan Khosla, 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 1496/2022

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 bring all service and medical records of the applicant.
- (b) To grant disability pension and broad banding of the disability pension to the applicant from the date of retirement w.e.f. 01.09.2021.
- (c) To direct the respondents to issue a corrigendum PPO pertaining to the disability pension and broad banding of the disability pension of the applicant.

(d) To direct the respondents to pay arrears of disability pension and broad banded disability pension along with interest @ 12% w.e.f. 01.09.2021.

(e) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.

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., 31.08.2021, 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, 31.08.2021 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 1496/2022