

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

99.

OA 953/2022 WITH MA 4612/2023

SGT PK Rajesh

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

:

Mr. Deepak Bansal, Advocate

For Respondents

:

Mr. Rajeev Kumar, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)

O R D E R  
06.11.2023

MA 4612/2023

Counter affidavit has been filed. There being some delay in filing the counter affidavit, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

2. MA stands disposed of.

OA 953/2022

3. 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) The impugned letters dated 30.11.2021 and 24.08.2020 be set aside and the respondents be directed to grant 30% of disability element of pension to the applicant after broad banding the same to 50% as per broad band policy w.e.f. 01.03.2018 with 9% interest per annum for disability his disability of Primary Hypertension assessed @30% disability for life.*

- (b) *That a Resurvey medical board be assemble to appropriately consider the Acute Anterior Wall Myocardial infraction suffered on 09.08.2019 and assess the percentage of disability suffered by the applicant due to the same.*
- (c) *Direct award of disability pension due to Acute Anterior Wall Myocardial infraction suffered on 09.08.2019 by the applicant subsequent to assessment of the same by the RMB.*
- (d) *Grant any other/further relief.*

4. The applicant was enrolled in the Indian Air Force on 02.02.1995 and discharged from Indian Air Force on 28.02.2018. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

5. 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 v. 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%.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 28.02.2018 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. However, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/discharge, whichever is lesser, in keeping with the law laid down in the case of *Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649]*.

7. Accordingly, the respondents are directed 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.

8. No order as to costs.

9. Pending miscellaneous application, if any, stands disposed of.

[RAJENDRA MENON]  
CHAIRPERSON

[C. P. MOHANTY]  
MEMBER (A)