

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

94.

OA 1347/2022

Ex Sub Meharban

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

: Mr. Ved Prakash, Advocate

For Respondents

: Mr. Avdhesh Kumar Singh, Advocate
Maj Sridhar J, OIC, Legal Cell

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

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

O R D E R
12.10.2023

OA 1347/2022

Invoking the jurisdiction of this Tribunal; under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

“(a) Quash the Impugned Order No. C/JC732049/Dis-I dated 07.10.2021.

(b) Direct the respondents to grant disability element of pension to the applicant duly round off to 50% w.e.f. his date of discharge.

(c) Direct the respondents to pay the due arrears of disability element of Pension with interest @12% p.a from the date of retirement with all the consequential benefits.”

2. Even though the applicant is found to be suffering from the following three ailments viz. (i) Primary Hypertension and (ii) Dimorphic Anaemia and (iii) Dyslipidemia, the composite

disability for the three ailments have been assessed at 36.82%, during the course of hearing today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be praying for disability pension pertaining to one ailment i.e., Primary Hypertension and he gives up his claim for all other ailments.

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

4. 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%.

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. All other claims stand rejected.

6. 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 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.

[RAJENDRA MENON]
CHAIRPERSON

[P.M. HARIZ]
MEMBER (A)

In view of the above order, learned counsel for the respondents makes an oral prayer for grant of leave to appeal for impugning the order passed in the application to the Hon'ble

Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

2. After hearing learned counsel for the respondents and going through our order, there appears to be no point of law much less any point of law of general public importance involved in the matter, therefore, oral prayer for grant of leave to appeal stands declined.

[RAJENDRA MENON]
CHAIRPERSON

[P. M. HARIZ]
MEMBER (A)

Priya