

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

69.

OA 617/2023

Ex Nb Sub Sher Singh Airy
Versus
Union of India & Ors.

... Applicant

... Respondents

For Applicant : Ms. Chhavi Yadav, Advocate for
Mr. Ajit Kakkar, Advocate
For Respondents : Mr. K.K Tyagi, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

O R D E R
26.09.2023

OA 617/2023

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) To direct the respondents to bring all service and medical documents on record with advance copy to the applicant.
- (b) To set aside/quash the Rejection Letter(s) in respect of the Applicant's claim of disability pension dated 18.10.2022 and 19.12.2022.
- (c) To grant disability pension to Applicant from the date of Release (31.10.2022) w.e.f. 01.11.2022.

(d) To direct the Respondents to grant broad banding of the disability pension w.e.f. 01.11.2022.

(e) To direct the Respondents to issue a corrigendum PPO pertaining to the disability pension and broad banding of the disability pension of the Applicant.

(f) To direct the Respondents to pay arrears of disability pension and broad banded disability pension along with interest @ 8% w.e.f. 01.11.2022.

(g) 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.

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 the Primary Hypertension may arise even in a peace area due to stress and strain of service. Therefore, 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. 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.

[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 617/2023