

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

26.

OA 2114/2022

Capt (IN) Nilay Kumar Kukreti (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Shakti Chand Jaidwal, Advocate
For Respondents : Mr. Y P Singh, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R
22.04.2024

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) Call for relevant records of the applicant and after perusal thereof, set aside the impugned order dated 19th May, 2022 passed by the respondents, rejecting second and final appeal of the applicant for grant of disability pension.*
- (b) Direct the respondents to treat applicant's disability, namely, 'Primary Hypertension' as attributable to/aggravated by stress and strain of Naval service.*
- (c) Direct the respondents to grant disability pension to the applicant @30% for life w.e.f. 01.06.2020, as degree of his disablement has been assessed @30% for life by the RMB.*
- (d) Direct the respondents to pay disability pension to the applicant at enhanced rate of 50% for life w.e.f. 01.06.2020*

by broad banding his disability from 30% to 50% as per Govt. Policy dated 31.01.2001.

(e) Direct the respondents to pay to the applicant an interest @ 10% p.a. on the arrears of disability pension w.e.f. 01.06.2020 till the actual payment and/or.

2. The applicant was commissioned in the Indian Navy on 01.07.1985 and discharged from Service on 31.05.2020. The applicant was examined by a duly constituted RMB on 22nd May, 2020 which held his disability of Primary Hypertension @30% for life while it was held that the disability was neither attributable to nor aggravated by service. 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 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%.

4. Accordingly, we allow this application and direct the respondents to grant disability element of pension for the disability of Primary Hypertension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., **31.05.2020** 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, 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.

6. No order as to costs.

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

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**