

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

55.

OA 894/2023

Ex Sgt Ejazul Haque	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Arvind Kumar & Ms. Riti Sarkar, Advocates
For Respondents	:	Mr. D.K Sabat, Advocate

CORAM

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

O R D E R
04.01.2024

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 and set aside the rejection letter dated 23.02.2023 (Annexure A-1) and other communication connected therewith or incidental thereto and.
- (b) Quash and set aside the RMB dated 22.07.2014 (Annexure A-2) to the extend assessing the case of the applicant neither attributable to nor aggravated by the service.
- (c) Direct the respondents to initiate the disability pension vis-a-vis the applicant and entitle the applicant for the disability pension retrospectively w.e.f. 01.06.2015 i.e., date of discharge

- (d) Direct the respondents to pay accrued arrears of the unpaid disability element of the pension hitherto, with the interest @ 12% per annum.
- (e) Award cost of the instant case; and.
- (f) Grant any other relief or reliefs as to this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

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 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 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.

5. 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].

6. 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.

7. Pending MAs, if any, stand closed. There is no order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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