

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

58.

OA 3740/2023 with MA 1611/2024

Sub Dilip Kumar Nanda (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate
For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM

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

O R D E R
11.07.2024

MA 1611/2024

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.

MA stands disposed of.

OA 3740/2023

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 grant disability element of pension by setting aside the Impugned Order with broad banding benefit of rounding off to 50%; of his disability by treating his disability as attributable to and aggravated from the Military service; and/or*
- (b) *To direct the respondents to pay due arrears of disability pension with interest @ 10% p.a. with all the consequential benefits; and/or*

(c) *To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.*

2. The applicant was enrolled in the Indian Army as a combatant on **24.02.1995** and was discharged from Service on **28.02.2023**.

The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 40% as is evident from the medical records. The composite disability for the ailment has also been assessed at 40%.

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 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 @ 40%.

4. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 40% for life for the disability of primary hypertension which be rounded off to 50% for life from the date of retirement, i.e., **28.02.2023** 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)**

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