

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

102.

OA 2825/2023 WITH MA 3939/2023

WO Om Prakash Yadav (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. A K Chaudhary, Advocate
For Respondents : Mr. Sudhir Kumar, Advocate

CORAM

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

O R D E R
25.10.2024

MA 3939/2023

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648), the delay in filing the OA is condoned.

2. MA stands disposed of.

OA 2825/2023

3. 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) Set aside the impugned order dated 20.05.2022 passed by the respondents, rejecting initial claim of the applicant for grant of disability pension.

(b) Direct the respondents to concede disability of the applicant namely, primary hypertension (old) and complex partial seizure with left temporal Cavernomas (old) as attributable to/aggravated by stress and strain of Military Service in terms of Para 54 of Chap VI of GMO, 2008 read in conjunction with Annexure III of entitlement Rules, 2008.

(c) Direct the respondents to grant disability pension to the applicant @40% for life from the date of his released from service i.e. wef 01.06.2022, as degree of his disablement has been assessed @40% for life by the RMB.

(d) Direct the respondents to pay disability pension to the applicant at enhanced rate of 50% for life from the date of his boarding out from service i.e. 01.06.2022 by broad-banding applicant's disability from 40% 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 arrears of the disability pension w.e.f. 01.06.2022.

4. The applicant was enrolled in the Indian Air Force on 11.07.1984 and discharged from Air Force Service on 31.05.2022 after rendering 37 years and 10 months and 19 days of regular service. During the course of hearing, learned counsel for the applicant made a fair statement that 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. The applicant submits that for the purpose of Primary Hypertension, the

disability has been assessed @30% as is evident from the medical records.

5. 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 Release Medical Board @30%.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @30% for life which be rounded off to 50% for life from the date of retirement, i.e., **31.05.2022** 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.

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.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[LT GEN C.P. MOHANTY]
MEMBER (A)**

Ps