

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

29.

OA 2825/2023 with MA 3939/2023

WO Om Prakash Yadav (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. A K Chaudhary, Advocate
For Respondents : Sgt Arjun, DAV, Air Force (Sudhir kumar)

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
20.09.2023

MA 3939/2023

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 283 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of UoI & Ors Vs. Tarsem Singh 2009(1)AISLJ 371 and in Ex Sep Chain Singh Vs. Union of India & Ors (Civil Appeal No. 30073/2017) and the reasons mentioned, the MA 3939/2023 is allowed despite opposition on behalf of the respondents and the delay of 283 days in filing the OA 2825/2023 is thus condoned. The MA is disposed of accordingly.

The applicant vide the present OA makes the following prayers:-

“(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 and/or;

(f) Issue such other order(s)/direction(s) as may be deemed appropriate in the facts and circumstance of the case.

In as much as the first appeal made by the applicant dated 12.11.2022 is stated to have not been disposed of by the respondents within the period of 06 months therefrom nor even till institution of the present OA instituted on 06.09.2023, in terms of Section 21 (2) (b) of the AFT Act 2007, we consider it appropriate to take up the OA for consideration.

Notice is issued and accepted on behalf of the respondents. Counter affidavit thereto be filed by the respondents within four weeks. Rejoinder, if any, be filed by the applicant within four weeks thereafter.

The matter be listed before the Principal Registrar for completion of pleadings on **24.11.2023** and before the Bench thereafter.

Original RMB proceedings qua the applicant be produced by the respondents on the next date of hearing with a copy being placed on the record and a copy being supplied to the applicant through counsel.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

AP