

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

5.

OA 3231/2023 with MA 4415/2023

JWO Pancha Nand Jha (Retd) Applicant
VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. AK Chaudhary, Advocate

For Respondents : Mr. Arvind Kumar, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

ORDER
25.10.2023

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

(a) Quash and set aside the impugned order dated 23 Feb 2022 to the extent this order deny the grant of Disability Pension to the applicant;

(b) Direct the Respondents to treat the disabilities of the Applicant namely, "Primary Hypertension, Diabetes Mellitus Type-II and Dyslipidemia" as aggravated by military service;

(c) Direct the Respondents to grant disability element of pension to the Applicant @ 50% for life w.e.f. 01.12.2021, as degree of his disablement for because of the said composite disabilities have been assessed @ 50% for life by the RMB;

(d) Direct the Respondents to pay disability element of pension to the Applicant at an enhanced rate @ of 75% for life w.e.f. 01.12.2021 by rounding-off/ broad-banding Applicant's disability from 50% to 75% as per Govt. Policy dated 31.01.2001.

(e) Direct the Respondents to pay to the Applicant an interest @ 10% per annum on the arrears of enhanced disability pension w.e.f 01.07.2022 and/or;

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

Along with the same is MA 4415/2023 filed on behalf of the applicant seeking condonation of 499 days is delay 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 4415/2023 is allowed and the delay of 499 days in filing the OA 3231/2023 is thus condoned. The MA is disposed of accordingly.

Inasmuch as the first appeal filed by the applicant dated 12.07.2022 has not been responded to by the respondents within a stipulated period of six months from the date of filing thereof, in terms of Section 21(2)(b) of the AFT, Act 2007 we consider it appropriate to take up the OA for consideration.

Notice of the OA is thus issued and accepted on behalf of the respondents. The counter affidavit of the respondents be filed within a period of four weeks. Rejoinder, if any, thereto be filed by the applicant within a period of four weeks thereafter.

List the matter before the Principal Registrar on **08.01.2024** for completion of pleadings and before the Bench thereafter.

The original RMB proceedings be produced by the respondents on the next date of hearing.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(LT GEN P. M. HARIZ)
MEMBER (A)**

NMK/POOJA