

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

57.

MA 5606/2025 in OA 2435/2022

Cdr Nitin Dhir (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Shakti Chand Jaidwal, Advocate
For Respondents : Mr. R S Chhillar, Advocate

CORAM

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

O R D E R
27.11.2025

MA 5606/2025

This is an application filed on behalf of the applicant seeking early hearing of OA 2435/2022.

2. Considering the fact that the applicant is pressing for disability pension for the ailment of Bronchial Arthritis only and give up all other ailments, we allow the prayer for early hearing.

3. MA stands disposed of.

OA 2435/2022 WITH MA 3309/2022

4. OA is Taken on board.

MA 3309/2022

5. Keeping in view the averments made in the miscellaneous application and finding the same to be bona

fide, in the light of the decision in Union of India and others Vs. Tarsem Singh (2008) 8 SCC 648, the same is allowed condoning the delay in filing the O.A.

6. MA stands disposed of.

OA 2435/2022

7. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, applicant has filed this application and the relief claimed in Para 8 reads as under:-

“(a) Set aside the impugned order dated 23.08.2022 passed by the Respondents, rejecting first appeal of the Applicant for grant of disability pension as time-barred.

(b) Direct the Respondents to concede disabilities of the Applicant, namely (i) DIABETES MELLITUS (ii) PRIMARY HYPERTENSION and (iii) BRONCHIAL ASTHMA” as Attributable to /Aggravated by Naval service;

(c) Direct the Respondents to consider composite percentage of Applicant’s disabilities as 54% (20+24+20) as per pension regulations, instead of 40% as calculated by the RMB;

(d) Direct the Respondents to grant disability pension to the Applicant @54% for life w.e.f. 06.03.2007, by considering degree of his disablement due to the said disabilities @ 54% for life;

(e) Direct the Respondents to pay disability pension to the Applicant at enhanced rate of 75% for life from the date of his retirement from service i.e. 06.03.2007 by broad-banding his disabilities from 54% to 75% as per Govt. Policy dated 31.01.2001;

(f) Direct the Respondents to pay interest @ 10% p.a. to the Applicant on arrears of disability pension w.e.f. 06.03.2007 till payment;

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

8. The applicant claims disability benefit for three ailments, Diabetes Mellitus 20%, primary Hypertension 30%, both these disabilities as per medical records held to the neither attributable nor aggravated by military service. However, Bronchial Asthma @20% is said to be aggravated on account of military service and in the medical board proceedings held on 24.01.2007, part 4 of the RMB proceedings with regard to Bronchial Asthma, it has been held that the same is aggravated by military service and the disability has been assessed @ 20%.

9. Keeping in view the aforesaid, as the ailment is aggravated by military service, we allow the ailment with regard to disability for Bronchial Asthma @ 20% rounded off to 50% in the light of the judgment rendered by the Hon'ble Supreme Court in *Union of India vs. Ram Avtar, Civil Appeal No. 418 of 2012*. However, as far as disability of Diabetes Mellitus and Primary Hypertension is concerned, the applicant does not press the same in this application.

10. In view of the above, we allow the application to the extent of granting disability pension at 50% for Bronchial Arthritis. However, in view of the judgment of Hon'ble Supreme Court in the case of Union of India and others Vs. Tarsem Singh (Civil Appeal No. 5151-5152/2008) the arrears shall be restricted to three years prior to the filing of the OA, i.e., 21.02.2022 and payable to the applicant within four months of the receipt of a copy of this order failing which it shall earn interest @ 6% p.a. till the actual date of payment.

11. The application stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Priya