

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

48.

OA 338/2022 with MA 419/2023 & 427/2022

MWO Dinesh Prasad Roy (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri Manoj Kr Gupta, Advocate

For Respondents : Shri Niranjana Das,, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT. GEN. RANBIR SINGH, MEMBER (A)

O R D E R

20.03.2023

MA 419/2023

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.

MA 427/2022

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** (2009(1) AISLJ 371), the delay in filing the OA is condoned.

MA stands disposed of.

OA 338/2022

Invoking the jurisdiction of this Tribunal; under Section 14, 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 @30% broad banded to 50% alongwith arrears by treating the disabilities as attributable and aggravated by the Military service in terms of judgment of Hon'ble Apex Court relied upon by the various benches of Hon'ble AFT in catena of Orders including Order placed at Annex-A3, 4 and 5; and/or.
- (b) To direct the respondents to pay due arrears of disability element with interest @ 10% p.a. with effect from the date of retirement with all the consequential benefits; and/or
- (c) Quash and set aside the Impugned Order (Annex-A1); and/or
- (d) 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 submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records. The composite disability for the ailment has been assessed at 30%.

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 v. 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 @ 30%.

4. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge. All other claims stand rejected.

[RAJENDRA MENON]
CHAIRPERSON

[RANBIR SINGH]
MEMBER (A)

/jyoti/namita