

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

22.

MA 696/2023 in OA 1446/2021

Lt Col Amrish Man Gurung (Retd) ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Shri K.R. Verma, Advocate

For Respondents : Shri Arvind Patel, Advocate

CORAM :

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

ORDER
22-02-2023

MA 696/2023

Even though this application has been filed for early hearing of OA No. 1466/2021 which is listed for final hearing on 28th July 2023. However in OA No. 1466/2021 the applicant claims disability pension on account of ailment of Primary Hyper Tension which is quantified @ 30% and claims its rounding off to 50%. The issue with regard to the grant of disability ailment and disability pension in cases of Primary Hyper Tension already stands decided and therefore there is no reason as to why the matter should be kept pending. Accordingly, the MA is allowed. The OA is taken up today for hearing.

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[Signature]

OA 1446/2021

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) Quash the Respondent impugned Order dated 04.10.2019 and Order dated 05.03.2020, vide which the claim to disability pension of the applicant has been rejected.
(Annexure-a1 (colly))
- (b) Direct the Respondents to grant disability element of pension to the applicant w.e.f 01 Nov 2019, the date of retirement of the applicant.
- (c) Direct the Respondents to grant benefit of broad banding of disability pension to 50%, and grant all consequential benefits like arrears on account of disability pension and interest on amount due.
- (d) Direct the Respondents to pay disability element of pension to the Applicant at an enhanced rate @ of 75% for life w.e.f. 01.02.2020 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 interest @ 12% per annum w.e.f. 01.11.2019, the date of retirement of the applicant to till the actual date of payment.

(f) Pass any other order that this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.

2. Even though the applicant is found to be suffering from the following two ailments viz, (i) Dyslipidemia and (ii) Primary Hypertension and the composite disability for the two ailments have been assessed at 30%, during the course of hearing today, learned counsel for the applicant made a fair statement that for the present 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.

4. 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%.

5. 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.



**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**



**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**

/neha/namita