

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

A.

OA 192/2022 WITH MA 268/2022

Sgt Virender Singh Yadav (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

:

Mr. AK Chaudhry, Advocate

For Respondents

:

Mr. Rajeev Kumar, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER  
06.10.2023

Vide our detailed order of even date, we have allowed the main OA No. 192/2022. Faced with this situation, learned counsel for the respondents makes an oral prayer for grant of leave for impugning the order to the Hon'ble Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

After hearing learned counsel for the respondents and going through our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order, therefore prayer for grant of leave to appeal stands dismissed.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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WO Sgt Virender Singh Yadav (Retd) ... Applicant

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For Applicant : Mr. A.K. Chaudhary, Advocate

For Respondents : Mr. Rajeev Kumar, Advocate

**CORAM :**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**

**HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)**

**ORDER**

**MA 268/2022**

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.

2. MA stands disposed of.

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3. 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 and set aside the impugned order dated 08.09.2021 to the extent this order deny the grant of Disability Pension to the applicant.

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**WO Sgt Virender Singh Yadav (Retd) Vs Uoi & Ors.**

- (b) Direct the respondents to treat the disability of the applicant namely, 'PRIMARY HYPERTENSION' by treating disease as attributable to and aggravated by military service.
- (c) Direct the respondents to grant disability element of pension to the applicant @30% for life w.e.f. 30.07.2011, as degree of his disablement for the said disability has been assessed @30% for life by the RMB.
- (d) Direct the respondents to pay disability element of pension to the applicant at an enhanced rate @ of 50% for life w.e.f. 30.07.2011 by rounding off/broad banding applicant's disability from 30% to 50% 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. 30. 07.2011.

4. 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%.

5. 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%.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 29.07.2011 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012) decided on 10.12.2014. However, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/discharge, whichever is lesser, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

6. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of

receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

5. No order as to costs.

6. Pending miscellaneous application, if any, stands disposed of.

Pronounced in the open Court on 6 day of October, 2023.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

Ps

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