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

54.

OA 2527/2022 WITH MA 3200/2023
AND MA 3434/2022

H Ex Hav/Clk Ranjeet Singh (Retd) ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Rohit Pratap, Advocate
For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM :

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

ORDER
26.09.2023

MA 3200/2023

Counter affidavit has been filed. There being some delay in filing the same, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

2. The MA stands disposed of.

MA 3434/2022

3. Keeping in view the averments made in this 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 instant application is allowed condoning the delay in filing the OA.

4. The MA stands disposed of.

5. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

(a) To declare the action of respondents as unjust, arbitrary and illegal.

(b) To direct the respondents for grant of disability element of pension and pay arrears @ 40% with an interest @ 18% per annum from the date of applicant's discharge from service i.e. 31 Aug 2018.

(c) To direct the respondents to grant the benefit of rounding off disability of the applicant to 50% from 40% and pay arrears with an interest @ 18% per annum from the date of applicant's discharge from service i.e. 31 Aug 2018 in terms of letter dated 31 Jan 2001.

(d) To grant an interest @ 18% on delayed payment of the disability pension. and

(e) Any other relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

(f) Award Cost.

6. Even though the applicant is found to be suffering from the following ailments viz. (i) Primary Hypertension (ii) Dyslipidemia (iii) Impaired Glucose Tolerance and (iv) Recurrent Depressive

Disorder and the composite disability for the four ailments have been assessed at 70%, during the course of hearing today, learned counsel for the applicant made a fair statement that for the present, the applicant would only be praying for disability pension pertaining to one ailment, i.e., Primary Hypertension and he gives up his claim for other ailments. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 40%, as is evident from the medical records.

7. The respondents are directed to grant disability element of pension to the applicant @ 40% for life which be rounded off to 50% for life from the date of retirement i.e., 31.08.2018, 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 prior to 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].

8. 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.

9. Pending MAs, if any, stand closed. There is no order as to costs.

[RAJENDRA MENON]
CHAIRPERSON

[P.M. HARIZ]
MEMBER (A)

1. Vide our orders of even date, we have allowed the OA. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007, to the Hon'ble Supreme Court.

2. Heard learned counsel for the respondents, we find no question of law much less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[RAJENDRA MENON]
CHAIRPERSON

[P.M. HARIZ]
MEMBER (A)

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OA 2527/2022