

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

42.

OA 1477/2022 WITH MA 1928/2022

WO Om Prakash (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

: Mr. Manoj Kumar Gupta, Advocate

For Respondents

: Mr. Rajeev Kumar, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

ORDER
31.10.2023

MA 1928/2022

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.

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) To direct the respondents to grant disability element of pension @30% broad banded to 50% for life, in terms of judgment of the Hon'ble Supreme Court in Civil Appeal 418/2012 UoI vs Ram Avtar decided on 10 Dec 2014, by treating the disabilities as

attributable/aggravated by the Military service in terms of this Hon'ble Apex Court order in Dharamvir Singh (Supra), Rajbir Singh & Ors (Supra) relied upon by the Hon'ble AFT in identical Orders.

- (b) To direct the respondents to pay due arrears of disability element with interest @10% p.a..
- (c) To pass such further order or orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.

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 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.

7. The respondents are directed 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. 30.01.2020 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.

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 miscellaneous application, if any, disposed of.

10. There is no order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT. GEN P. M. HARIZ]
MEMBER (A)