

COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

31.

OA 2105/2022 WITH MA 3199/2023

Ex WO Hira Lal Prasad Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. S.S. Bhati, Advocate
For Respondents : Ms. Barkha Babbar, Advocate

CORAM :

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

ORDER
23.11.2023

MA 3199/2023

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.

OA 2105/2022

2. 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) Direct the respondents to grant and pay Disability pension to the applicant @ 50%

with interest 12% p.a. from the date of discharge i.e. 30.06.2021 by way of giving the benefits of rounding off it to 50% of disability pension in the light of judgments by Larger Bench of this Tribunal and also by law laid down by Hon'ble Supreme Court.

- (b) Award the cost of OA in favour of applicant.
- (c) Pass any other relief/relief(s) which this Hon'ble Tribunal may deem fit, proper and just in the facts & circumstances of case, in the interest of justice.

3. The applicant was enrolled in the Indian Air Force on 08.02.1986 and discharged from Service on 30.06.2021.

4. Even though the applicant is found to be suffering from two ailments viz, (i) **Primary Hypertension** assessed @ 30% and (ii) **Retinal Vasculitis** @ 20%. The composite disability for these two ailments has been assessed at 40% for life. However, during the course of hearing, learned counsel for the applicant made a fair statement that for the present the applicant would only be pressing his claim for disability pension pertaining to one ailment i.e. **Primary Hypertension** and 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.

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% rounded off to 50% for life from the date of retirement i.e. **30.06.2021** 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.

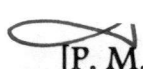
8. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four

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 MAs, if any, stand closed.

10. No order as to costs.


[RAJENDRA MENON]
CHAIRPERSON


[P. M. HARIZ]
MEMBER (A)

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