

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

32.

OA 2168/2022 WITH MA 2892/2022  
AND MA 3042/2023

Ex Sgt Chandrapal Singh	.....	Applicant
VERSUS		
Union of India and Ors.	.....	Respondents

For Applicant	:	Mr. Baljeet Singh, 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 2892/2022

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay in filing the present OA. In view of the judgment of the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs. Tarsem Singh [2009 (1) AISLJ 371] and the reasons mentioned in the application, the delay in filing the OA is condoned. MA stands disposed of accordingly.

MA 3042/2023

2. 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 2168/2022

3. 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 set aside the impugned order letter No.Air HQ/99798/1/795854/DAV/DP/CC dated 15.07.2022 and Release Medical Board dated 27.03.2018.*
- (b) *To direct the respondents to grant disability element of pension @30% with effect from the date of discharge by treating the disability of the applicant as attributable to and aggravated by the Air Force Service.*
- (c) *To direct the respondents to grant the benefit of rounding off of disability element of pension of the applicant @50% (30% to be rounded off to 50%) with effect from date of discharge with all consequential benefits.*
- (d) *To direct the respondents to pay the due arrears of disability element of pension with interest @12% p.a with effect from the date of discharge till actual payment.*
- (e) *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 was enrolled in the Indian Air Force on 04.02.1999 and discharged from Service on 28.02.2019.

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. 28.02.2019 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)

/vks/