

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

64.

OA 2327/2022 WITH MA 3851/2023

Capt (TS) Roy Joseph (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. IS Yadav, 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

MA 3851/2023

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 2327/2022

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 action of the respondents as unjust, arbitrary and illegal and;
- (b) To quash the order dated 04 Oct 2021 dated 20 Jan 2022 and dated 01 Sep 2022
- (c) To direct the respondents to grant the disability element of pension @30% and further rounding

off the disability element of pension to 50% from the date of retirement (w.e.f. 01 Oct 2021)

- (d) To grant an interest of 12% on the delayed payment of disability element of the disability pension.
- (e) To award exemplary costs upon the respondents in the facts and circumstances of the record.
- (f) Such further order or orders, direction/ directions be passed so as to this learned Tribunal may deem fit and proper in accordance with law.

2. 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%.

3. 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%.

