

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

66.

OA 2426/2022 WITH MA 4615/2023

Sgt R. Srikantha (Retd)	.....	Applicant
VERSUS		
Union of India and Ors.	.....	Respondents

For Applicant	:	Mr. Raj Kumar, 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  
24.11.2023

MA 4615/2023

This is an application filed by the respondents seeking condonation of delay in filing the counter affidavit. For the reasons stated in the application, the delay in filing the counter affidavit is condoned. The counter affidavit is taken on record. MA stands disposed of.

OA 2426/2022

2. Taken on board. Learned counsel for the applicant submits that he does not want to file any rejoinder.
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 quash and set aside the RMB proceedings and impugned order to the extent they deny the grant of disability element of pension to the applicant.*
- (b) *To direct the respondents to grant the disability element of pension @30% broad banded to 50% with interest @12% p.a wef date of discharge, by treating the disabilities as attributable to and/or aggravated by military service.*
- (c) *To pass any other order(s) or/and direction(s) in favour of the applicant which may deem just and proper under the facts and circumstances of the case in the interest of justice.*

4. The applicant was enrolled in the Indian Army on 19.12.2001 and discharged from Service on 31.12.2021. It is submitted that the applicant was diagnosed with the disability of Primary Hypertension assessed at the rate of 30 per cent and Dyslipidemia assessed at the rate of 05 per cent for life. The composite assessment of both the disabilities was made at 30 per cent for life. However, during the course of arguments learned counsel for the applicant submitted that the applicant does not want to press his claim with respect of disability “Dyslipidemia” and restricts his claim only to “Primary Hypertension.”

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 Vs.. 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. 31.12.2021 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)

/vks/