

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

112.

OA 2804/2022 WITH MA 3831/2022 AND MA 5432/2023

MCPOAF-I (HON Lt) Avtar Singh (Retd) Applicant

Versus

Union of India & Ors. Respondents

For Applicant : Mr. Ravi Kumar, Advocate

For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
21.12.2023

MA 3831/2022

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh (2009(1) AISLJ 371), the delay in filing the OA is condoned.

2. MA stands disposed of.

MA 5432/2023

3. 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.

4. MA stands disposed of.

5. 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 the disability element of pension @30% broad banded to 50% for life in view of the Hon'ble Apex Court judgement in Rajbir Singh (Supra) and Dharamvir Singh (Supra) by treating the disabilities as attributable and aggravated to military service.
- (b) To set aside the impugned order(s) and direct the respondents to grant the disability element of pension @30% for lifelong, broad-banded to 50% along with all consequential benefits and with the arrears and interest @12% p.a. w.e.f. date of discharge, by treating disease as attributable to and aggravated by military service.
- (c) To pass such orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.

6. The applicant was enrolled in the Indian Navy on 08.07.1985 and discharged from Navy Service on 31.07.2021. 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 disabilities for the ailments have been assessed at 34%. Since, the first disability i.e. Dyslipidemia @ 5% for life does not fulfill the requisite of 20%, it does not warrant any consideration.

7. 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%.

8. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 31.07.2021 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. .

9. 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.

10. No order as to costs.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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