

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

85.

OA 3039/2022 with MA 4968/2023

Hav Hemanta Kumar Behera (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Kritendra Tiwari, Advocate
For Respondents : Mr. Rajan Khosla, Advocate

CORAM

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

ORDER
08.12.2023

MA 4968/2023

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 3039/2022

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) Quash and set aside the impugned Letter Nos 14635962W/DP-4/Pen dated 25 Mar 2021, B/40502/921/2021/AG/PS-4(Imp-II) dated 17 Jan 2022 and 14635962W/DP-4/Pen dated 18 Aug 2022
- (b) To direct the respondents to grant disability Pension @ 50% after rounding off from 30% for

life as recommended by RMB to the applicant with effect from 01 Nov 2020 i.e. the date of discharge from service with interest @ 12% p.a. till final payment is made.

(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.

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%.

4. 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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

Vide our detailed order of even date, we have dismissed the main OA No.3039/2022. Faced with this situation, learned

counsel for the applicant makes an oral prayer for grant of leave for impugning the order to the Hon'ble Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

After hearing learned counsel for the applicant and going through our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order, therefore oral prayer for grant of leave to appeal is declined.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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

81.

MA 450/2024 in OA 3039/2022

Hav Hemanta Kumar Behera (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Kritendra Tiwari, Advocate
For Respondents : Mr. Rajan Khosla, Advocate

CORAM

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

ORDER
09.02.2024

MA 450/2024

Vide order dated 8th December, 2023, we had allowed the OA. However, in the order declining the prayer for leave to appeal, it was inadvertently mentioned that learned counsel for the applicant makes an oral prayer for grant of leave to appeal whereas, the prayer was actually made on behalf of the respondents.

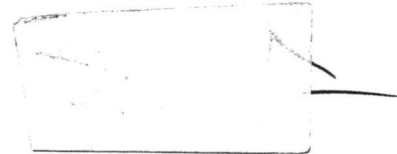
2. In view of the above, while allowing this MA for modification, we modify the order declining the leave to appeal which shall now be read as under:-

“Vide our detailed order of even date, we have allowed the main OA No. 3039/2022. Faced with this situation, learned counsel for the respondents makes an oral prayer for grant of leave for impugning the order to the

Hon'ble Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

After hearing learned counsel for the respondents and going through our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order, therefore oral prayer for grant of leave to appeal is declined.”

3. With the aforesaid, MA stands disposed of.
4. This order shall form part and parcel of the order dated 8th December, 2023.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON



[REAR ADMIRAL DHIREN VIGI]
MEMBER (A)