

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

84.

OA 3065/2022 WITH MA 2432/2023

Captain (TS) George Varughese (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

:

Mr. Shakti Chand Jaidwal, Advocate

For Respondents

:

Mr. Anil Kumar Gautam Sr CGSC

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
06.10.2023

MA 2432/2023

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 3065/2022

2. 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) Set aside the impugned order dated 20.07.2021 passed by the respondents rejecting applicant's initial claim for grant of disability pension.
- (b) Direct the respondents to treat applicant's disability, namely, 'Primary Hypertension' as attributable to/aggravated by service.

- (c) Direct the respondents to grant disability pension to the applicant @ 30% for life w.e.f. 01.03.2022, as his disablement is assessed @30% for life by the RMB.
- (d) Direct the respondents to pay disability pension to the applicant at enhanced rate of 50% for life w.e.f. 01.03.2022 by broad banding his disability from 30% to 50% as per Govt. Policy dated 31.01.2001.
- (e) Direct the respondents to pay to the applicant an interest @ 10% p.a. on the arrears of disability pension w.e.f. 01.02.2022 till the actual payment and/or;
- (f) Issue such other orders/directions as may be deemed appropriate in the facts and circumstances of the case.

2. The applicant was enrolled in the Indian Navy on 16.08.1988 and discharged from Service on 28.02.2022. 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 and direct the respondents to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 28.02.2022 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. However, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/discharge, whichever is lesser, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

5. 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.

6. No order as to costs.

7. Pending miscellaneous application, if any, stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C. P. MOHANTY]
MEMBER (A)