

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

36.

OA 3269/2023

Sub Brajbhan Singh (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. US Maurya, Advocate
For Respondents : Mr. Sameer S. Sinha, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

ORDER
25.10.2023

The applicant vide the present OA makes the following prayers:-

“(a) Impugned order dated 29.03.2023 be set aside passed by the respondents to the extent this order deny the grant of Disability Pension to the applicant as disability was neither attributable to nor aggravated by military service.

(b) Direct the respondents to grant Disability Element w.e.f. 31.10.2022 (date of discharge) @50% (after rounding off from 30% to 50%) as applicant's disease originated after years of service in Armed Forces and his case is squarely covered on the matter of disease neither attributable to nor aggravated by military service by the Hon'ble Supreme Court in the case of Dharamvir Singh vs. Union of India & Ors. (Civil Appeal No. 4949 of 2013 judgment dated 02.07.2013), Union of India Vs. Rajbir Singh (Civil Appeal No. 2904 of 2011 judgment on 13.02.2015 along with the 26 connectd appeals), Union of India & Ors. Vs. Angad Singh Titaria (Civil Appeal No. 11208 of 2011 judgment on 24.02.2015) and latest judgment Ex. Gnr. Laxmanram

Poonia (Dead) through Lrs. Vs. Union of India and Ors. (Civil Appeal NO. 2633 of 2017 judgment dated 22.02.2017) and on the matter of rounding of disability pension Hon'ble Surpeme Court order dated 10.12.2014 in Civil Appeal No. 418/2012 tilted Union of India and Ors. Vs. Ram Avtar.

(c) Direct the respondents to grant arrears of Disability Element w.e.f. 31.10.2022 (date of Discharge) with 18% interest as applicant case squarely covered with this Hon'ble Tribunal in OA No. 1439/2016 titled Ex Sgt. Girish Kumar Vs. Union of India & Ors. order.

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

(e) Award cost of the OA to the Applicant."

A perusal of the records indicates that the first appeal filed by the applicant has been disposed of by the Appellate Committee on 29.03.2003 and that the applicant has not filed any second appeal thereafter. Therefore, it is considered appropriate that the present OA be treated as the second appeal by the respondents and is directed to be treated as such, and it is further directed that the same be disposed of within a period of six months from today.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN P. M. HARIZ)
MEMBER (A)