

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

E.

OA 775/2022

Ex Hav Ram Prakash Singh

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. Randhir Singh Kalkal, Advocate

For Respondents : Mr. Theepa Murugesan, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

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

ORDER

18.10.2023

Vide separate detailed order passed today. OA stands allowed.

Learned counsel appearing for the respondents makes an oral prayer for grant of leave to appeal for impugning the aforesaid order before the Hon'ble Supreme Court. However, there being no point of law, much less any point of law of general public importance involved in the order, which warrants grant of leave to appeal, the oral prayer is declined.

[RAJENDRA MENON]
CHAIRPERSON

[C. P. MOHANTY]
MEMBER (A)

/sm/

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HON'BLE LT GEN CP MOHANTY, MEMBER (A)

ORDER

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 the letter No. 15414518Y/REJ/DPI dated 01.08.2019*
- (b) *Direct to respondents to dispose of the first appeal dated 14.11.2019 and release the disability element with rounding off benefits of disability element @ 30% to @50% with effect from 01.05.2019 (w.e.f. date of retirement) to for life to the applicant, alongwith 10% annual interest till the payment be made for which the applicant deserves.*
- (c) *Issue any other appropriate order or direction which this Hon'ble Tribunal may be deem fit and proper in facts and circumstances of the case.*

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2. The applicant was enrolled in the Indian Army on 21.02.2002 and discharged from Army Service on 30.04.2019. 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 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 for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 30.04.2019 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.

Pronounced in the open Court on 18th day of October, 2023.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

ps/