

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

H.

OA 920/2022 with MA 1115/2023

Ex MWO Prakash Ashroba Hiwale

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

:

Mr. Virender Singh Kadian, Advocate

For Respondents

:

Mr. Niranjana Das, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)

ORDER
03.11.2023

Vide our orders of even date, we have allowed the application. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007 to the Hon'ble Supreme Court. We find no question of law much less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[RAJENDRA MENON]
CHAIRPERSON

[C. P. MOHANTY]
MEMBER (A)

Priya

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

OA 920/2022
with
MA 1215/2022

Ex MWO Prakash Ashroba Hiwale ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. V.S. Kadian, Advocate
For Respondents : Mr. Niranjana Das, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN CP MOHANTY, MEMBER (A)

ORDER

MA 1215/2022

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. MA stands disposed of.

OA 920/2022

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) Direct respondents to treat the disabilities of the applicant as attributable to or aggravated by military service and grant him disability element of pension along with broad banding/rounding off.
- (b) Direct the respondents to pay the due arrears of disability element of pension with interest @12% p.a. from the date of retirement with all the consequential benefits.
- (c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstance so the case along with cost of the application in favour of the applicant and against the respondents.

3. The applicant was enrolled in the Indian Air Force on 08.04.1972 and discharged from Air Force Service on 31.08.2009. The applicant submits that for the purpose of CORONARY ARTERY DISEASE ICD No. I-77.Z09.00 the disability has been assessed @ 30% as is evident from the medical records. The composite disability for the ailment has been assessed at 30%.

4. 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 Vs. 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 CORONARY ARTERY DISEASE ICD, which has been assessed by the competent Medical Board @ 30%.

5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for CORONARY ARTERY DISEASE ICD No. I-77.Z09.00 @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 31.08.2009 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].

6. 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.

7. No order as to costs.

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

Pronounced in the open Court on 30 day of November, 2023.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

ps/