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

70.

OA 2143/2023 with MA 1196/2024 & 3101/2023

WO Ramchandra Gaur (Retd) ..... Applicant
Versus
Union of India & Ors. ..... Respondents

For Applicant : Mr. Deepak Kumar, Advocate with
Mr. Vishal Saxena, Advocate
For Respondents : Mr. K K Tyagi, Sr CGSC

CORAM

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

ORDER
10.05.2024

MA 1196/2024

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 2143/2023 with MA 3101/2023

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 the applicant has filed this application and the reliefs claimed in para 8 read as under:

(a) *Quash and set aside the impugned order vide no Air HQ/99798/1/625328/01/18/DAV(DP/RMB) dated 08 Nov 2017 to the extent this order deny the grant of Disability Pension to the applicant,&;*

(b) *To direct the respondents to treat the disability of the Applicant namely, Primary Hypertension (old) 30% NIL FOR LIFE in which composite disability was assessed as 30% FOR LIFE as mentioned in RMB; as attributable and aggravated by military service (I.A.F);*

(c) *Direct the Respondents to grant disability element of pension to the Applicant @ 50% for life w.e.f. 31 Jan 2018 (date of retirement), as degree of his disablement for because of the said disability has been assessed @ 30% for life in the RMB &/Or;*

(d) *Direct the Respondents to pay disability element of pension to the Applicant at an enhanced rate @ of 50% for life w.e.f. 31 Jan 2018 by rounding –off/broad-banding Applicant's 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% per annum/month or above or as deems fit and proper by the Hon'ble court/Tribunal on the arrears of enhanced disability pension w.e.f. 31.01.2018 and/or;*

2. The applicant was enrolled in the Indian Air Force on 28.03.1980 and discharged from Service on 31.01.2018.

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 also 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*** *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 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., **31.01.2018** 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:

   (i) 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 MA (s), if any, stands closed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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