

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

G.

OA 1206/2023 WITH MA 1131/2024 AND MA 1874/2023

JWO Rajendra Prasad Yadav (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Madan Pal Vats, Advocate  
Mr. Abhay Kant Upadhyaya, Advocate  
For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM

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

ORDER  
02.04.2024

Vide our orders of even date, we have allowed the OA. 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.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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ORDER

MA 1874/2023

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.

2. MA stands disposed of.

OA 1206/2023

3. Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application seeking grant of disability pension.

4. The applicant was enrolled in the Indian Air Force on 28.11.1985 and discharged from service on 30.11.2017. The

applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 40% as is evident from the medical records. The composite disability for the ailment has been assessed at 40%.

5. 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 @ 40%.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 40% for life which be rounded off to 50% for life from the date of retirement i.e. 30.11.2017 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 shall be restricted to three years prior to the date of filing of OA (28.04.2023) keeping in view the law laid down in the

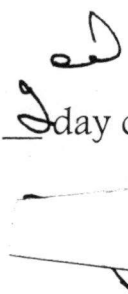
case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

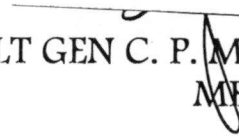
7. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

8. No order as to costs.

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

Pronounced in the open Court on this 2 day of April, 2024.

  
[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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