

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

87.

OA 2491/2022 with MA 2084/2024

MWO (HFO) OM Prakash Shaw (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. A K Chaudhary, Advocate  
For Respondents : Mr. Rajeev Kumar, Advocate

CORAM

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

ORDER  
21.05.2024

MA 2084/2024

Counter affidavit has been filed. There being delay in filing the same, this application has been filed seeking condonation of delay. Delay is condoned. Counter affidavit is taken on record. MA stands disposed of.

OA 2491/2022

2. 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) Call for relevant records of the Applicant and after perusal thereof, set aside the impugned order dated 11.03.2022 passed by the Respondents, rejecting the grant of disability pension;

(b) Direct the Respondents to concede disability of the Applicant, namely, "PRIMARY HYPERTENSION (Old), and DYSLIPIDEMIA (Old)" as Attributable to/Aggravated by stress and strain of Military Service. In terms of Para 43 of Chap VI of GMO, 2008 read in terms of Paras 43 of Chap VI of GMO 2002, amendment 2008 read with Rule-423.

(c) Direct the Respondents to grant disability pension to the Applicant @ 30% for life from the date of his boarding out from service i.e., w.e.f 01.01.2022, as degree of his disablement has been assessed @ 30% for life by the RMB;

(d) Direct the Respondents to pay disability pension to the Applicant at enhanced rate to 50% for life from the date of his boarding out from service i.e. 01.01.2022 by 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% p.a. on arrears of the disability pension w.e.f. 01.01.2022 and/or;

(f) Issue such other order(s)/direction(s) as may be deemed appropriate in the facts and circumstances of the case."

3. In this case, the applicant was enrolled in Indian Air Force on 06<sup>th</sup> June, 1986 and on completion of service was discharged on 31<sup>st</sup> December, 2021. Even though the applicant is found to be suffering from the following two ailments viz. (i) Primary Hypertension and (ii) Dyslipidemia, release medical board dated 01<sup>st</sup> June, 2021 held his disability (i) Primary Hypertension @ 30% for life and

(ii) Dyslipidemia @ 5% for life, the composite assessment of disability for the two ailments have been assessed at 33.5% for life. During the course of hearing today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be praying for disability pension pertaining to one ailment i.e., Primary Hypertension and he gives up his claim for all other ailments.

4. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

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 @ 30% for life.

6. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension

@ 30% rounded off to 50% for life with effect from the date of his discharge. All other claims stand rejected.

7. The respondents are directed 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 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.

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

9. No order as to costs.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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