

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

A.

OA 1109/2019 WITH MA 2566/2023

Ex CHELA Ashok Kumar

..... Applicant

Versus

Union of India & Ors.

..... Respondents

For Applicant : Mr. Ved Prakash, Advocate

For Respondents : Mr. R S Chhillar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

28.03.2024

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

  
[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

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ORDER

MA 2566/2023

Prayer made in this application is allowed. Accordingly,  
Counter affidavit is taken on record.

MA stands disposed off.

OA 1109/2019

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 Orders No.  
PN/0134/DP/920/2<sup>nd</sup>/18 dated 27.06.2019,

PN/0134/DP/920/15 dated 27.11.2015 and Order. PEN/600/D/LRDO 1:07/2014/166277B dated 31.07.2014.

- (b) Direct respondents to grant disability element of pension duly rounded off to 50% to the applicant w.e.f. his date of discharge.
- (c) Direct respondents to pay the due arrears of disability pension with interest @ 12% p.a. from the date of retirement with all the consequential benefits.

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

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 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.

5. 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. However, the arrears will be restricted to three years from the date of filing of this OA 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. Pending MAs, if any, stand closed. There is no order as to costs.

8. Pronounced in the open Court on this 28 day of March 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

/sm/