

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

53.

MA 2766/2024 IN OA 1114/2017

Col (TS) Anil Kumar (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. S S Pandey, Advocate  
For Respondents : Mr. Shyam Narayan, Advocate

CORAM

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

ORDER  
08.10.2024

MA 2766/2024

This is an application filed under Rule 25 of the Armed Forces Tribunal (Procedure) Rules, 2008, seeking modification of the order passed in OA No.1114/2017 on 19.08.2019. Although it is a fit case for filing as a review application, in exercise of special powers vested in us under Section 14(3) of the Armed Forces Tribunal Act, 2007, however, we have allowed this MA to be filed in the interest of justice. Thus, we take up the MA for consideration.

2. Since the applicant, as is evident from the counter affidavit filed, was already getting disability element of pension @ 20% for life for the disability of PIVD and vide order dated 19.08.2019 in OA No.1114/2017 was granted



disability element of pension @ 30% rounded off to 50% for the disability of Primary Hypertension, the composite assessment of both the disabilities comes to 50% which in terms of the Govt. of India, Ministry of Defence Letter No.1(2)/97/D(Pen-C) dated 31.01.2001 and law settled by the Hon'ble Supreme Court in Civil Appeal No.418/2012 titled as Union of India & Ors Vs. Ram Avtar vide judgement dated 10.12.2014, has to be rounded off to 75%.

3. In view of the above, the order dated 19.08.2019 is modified to the extent that the disability element of pension compositely assessed @ 50% for life [for PIVD @ 20% for life and Primary Hypertension @ 30% for life], which have different causes for their origin and are not connected with one another, is rounded off to 75% in view of the Judgment of the Hon'ble Apex Court in the case of Union of India Vs. Ram Avtar (supra). However, since the applicant was sleeping over the matter for about five years after passing of the order in OA No.1114/2017, the arrears shall be restricted to three years prior to the filing of this MA, i.e., 31.06.2024, in view of the judgment of the Hon'ble Supreme Court in the case of Union of India and others Vs. Tarsem Singh (Civil Appeal No.5151-5152/2008).

4. With the aforesaid, the MA stands disposed of.

5. This order shall form part and parcel of the order dated 19.08.2019.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

Neha  
MA 2766/2024