

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

116.

OA 1952/2019 with MA 2822/2019

Ex MWO Parshu Ram Nagar	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Ved Prakash, Proxy Counsel for Mr. Virender Singh Kadian, Advocate
For Respondents	:	Gp Capt Karan Singh Bhati, Sr. CGSC

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

ORDER
29.02.2024

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

- (e) *Quash and set aside the impugned letter Air HQ/99798/5/TBS/643504/Appeal/ AV-III dated 03.10.2019 and treat the disability of the applicant as attributable to or aggravated by Air Force service. And/or.*
- (f) *Direct the respondents to grant disability element of pension to the applicant with benefits of rounding off/broad banding of the disability element. And/or.*
- (g) *Direct respondents to pay the due arrears of disability element of pension with interest @12% p.a. from the date of retirement with all the consequential benefits.*

(h) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstance so the case along with cost of the application in favour of the applicant and against the respondents.

2. The applicant was enrolled in the Indian Air Force on 27.02.1974 and discharged from Service on 31.07.2013. 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 disabilities for the ailments have been assessed at 40%. Since, the second disability i.e. Hypothyroidism @ 15-19% for life does not fulfill the requisite of 20%, it does not warrant any consideration.

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 and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be

rounded off to 50% for life from the date of retirement i.e., 31.07.2013 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 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 miscellaneous application, if any, stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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