

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

14.

MA 3046/2023 with MA 3047/2023 in OA 1287/2021

UOI & Ors Applicant

VERSUS

Lt Col Devendra Singh Respondents

For Applicant : Dr. Vijendra Singh Mahndiyani, Advocate

For Respondents : Mr. S M Dalal, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

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

ORDER

10.04.2024

MA 3047/2023

Delay in filing the application seeking leave to appeal bearing 55 days is allowed in the interest of justice.

MA 3046/2023

The applicant vide the application MA 3046/2023 seeks leave to assail the order dated 13.04.2023 in OA 1287/2021 with submissions made on behalf of the applicant the Union of India to the effect that the disability of Essential Hypertension cannot be stated to be one of a permanent duration. Submissions on behalf of either side have been addressed in relation thereto with *inter alia* reliance placed on behalf of the non-applicant that is the applicant of OA 1287/2021 on the verdict of the Hon'ble Supreme Court in ***Commander Rakesh Pande vs UOI & Ors.*** in

Civil Appeal no. 5970/2019 as well as on the policy letter of the Govt. of India letter dated 07.02.2001.

It is essential to advert to Paras 4 and 5 of the order in OA 1287/2021 dated 13.04.2023 qua which leave to appeal is sought to assail the same which reads to the effect :-

4. It is essential to observe that Hon'ble Supreme Court in Civil Appeal No. 5970/2019 titled as Commander Rakesh Pande vs. Union of India, dated on 28.11.2019, observed as under :-

“Para 7 of the letter dated 07.02.2001 provides that no periodical reviews by the Re-survey Medical Boards shall be held for reassessment of disabilities. In case of disabilities adjudicated as being of permanent nature, the decision once arrived at, will be for life unless the individual himself requests for a review. The appellant is afflicted with diseases which are of permanent nature and he is entitled to disability pension for his life which cannot be restricted for a period of 5 years. The judgment cited by Ms. Praveena Gautam, learned counsel is not relevant and not applicable to the facts of this case. Therefore, the appeal is allowed and the appellant shall be entitled for disability pension @50% for life.”

5. Thus, a person afflicted with disease which are permanent in nature is entitled to disability pension for life which cannot be restricted for a period of time and the assessment/percentage of disability as made by the Medical Board has to be treated for life.

In these circumstances, in view of our express orders as detailed in paras 4 and 5 in OA 1287/2021, there is no ground to grant the prayer as made by the applicants the Union of India, the respondents arrayed to OA 1287/2021 as there is no substantial question of law much less any question involving public interest involved. The prayer seeking for leave to appeal is declined.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(REAR ADMIRAL DHIREN VIG)
MEMBER (A)**

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