

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

92.

OA 2805/2022 WITH MA 1944/2024 AND MA 3832/2022

WO Jagdish Chand Yadav (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
29.05.2024

MA 3832/2022

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648], the delay in filing the OA is condoned. MA stands disposed of.

MA 1944/2024

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

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3. 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:

OA 2805/2022
WO Jagdish Chand Yadav (Retd)

- (a) Call for relevant records of the applicant and after perusal thereof, set aside the impugned order dated 03.02.2016 passed by the respondents, rejecting initial claim of the applicant for grant of disability element of pension.
- (b) Direct the respondents to concede disability of the applicant, namely, Primary Hypertension as attributable to aggravated by stress and strain of Air Force Services.
- (c) Direct the respondents to grant disability pension to the applicant @30% for life w.e.f. 01.04.2016, 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 of 50% for life w.e.f. 01.04.2016 by broad banding his 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 disability pension w.e.f. 01.04.2016.

4. The applicant was enrolled in the Indian Air Force on 22.03.1984 and discharged on 31.03.2016. 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 Release Medical Board @ 30%.

6. Accordingly, we partially 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., 31.03.2016 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, i.e., 30.11.2022 in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

7. 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.

8. No order as to costs.

9. Pending miscellaneous application, if any, stands closed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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