

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

11.

OA 411/2020 with MA 4316/2023

Maj Suraj R Bhure (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Shakti Chand Jaidwal, Advocate
For Respondents	:	Mr. Aseem Kumar Sahay, Advocate

CORAM

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

ORDER
13.02.2024

MA 4316/2023

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.

OA 411/2022

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) Call for the records of the applicant from the respondents an after perusal thereof, set aside the impugned order

dated 19.06.2019 passed by the respondents rejecting first appeal of the applicant for grant of disability pension to him;

- (b) Direct the respondents to treat the disability of the applicant namely, "PRIMARY HYPERTENSION" as attributable to/aggravated by service;
- (c) Direct the respondents to grant disability pension to the applicant consisting of both service Element as well as disability element @ 30% for life w.e.f. 08.03.2013, as degree of his disablement because of the said disability has been assessed @ 30% for life by the RMB;
- (d) Direct the respondents to pay disability pension to the applicant at an enhanced rate @ 50% for life w.e.f. 08.03.2013 by rounding off/broad banding applicant's disability from composite 30% to 50% as per the Govt. Policy dated 31.01.2001.
- (e) Direct the respondents to pay to the applicant an interest @ 10% per annum on the arrears of enhanced disability pension w.e.f. 08.03.2013 and/or;
- (f) Pass such other order(s)/direction(s) as may be deemed appropriate in the facts and circumstance of the case.

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% 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 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].

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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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