

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

O.A. No. 150 of 2019

with

M.A. No. 564 of 2019

In the matter of :

Air Cmde VK Tiwari

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri Virender Singh Kadian, Advocate

For Respondents : Shri Rajeev Kumar, Advocate

CORAM :

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

ORDER

M.A. No. 564 of 2019 :

Vide this application, the applicant seeks condonation of 4260 days' delay in filing the OA. In view of the law laid down by the Hon'ble Supreme Court in the case of **Deokinandan Prasad Vs. State of Bihar [AIR 1971 SC 1409]** and in **Union of India & Ors. Vs. Tarsem Singh [2009 (1) AISLJ 371]**, delay in filing the OA is condoned.

MA stands disposed of accordingly.

O.A. No. 150 of 2019 :

Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter

referred to as 'AFT Act'), the applicant, a retired Air Cmde, has filed this OA and the reliefs claimed in Para 8 read as under :

(a) Quash and set aside the impugned letter No. Air HQ/99797/2765/Dis/O/DAV-1(B) dated 11.12.2018. And/or

(b) Direct respondents to treat the disabilities ID (i) CATARACT (LT) EYE AND EARLY CATARACT (RT) EYE, ID (ii) CAD AND ID (iii) PRIMARY HYPERTENSION (OLD) of the applicant as attributable to / aggravated by military service and grant disability element of pension from the date of retirement along with benefit of broad banding,

(c) 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.

(d) Any other relief which the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. The facts of the case, in brief, are that the applicant was commissioned in the Indian Air Force on 03.07.1972 and retired from service on 30.04.2007, in low medical category A4G2(P). The Release Medical Board (RMB) held on 29.09.2006 assessed his disabilities IDs (a) CATARACT (LT) EYE (OPTD), EARLY CATARACT (RT) EYE @ 11-14%; (b) CAD (OLD) and (c) PRIMARY HYPERTENSION (OLD), for life long, with composite degree of disablement @ 40% for life and the same were held as 'neither attributable to nor aggravated by military service (NANA)'.

3. Initially, the case of the applicant for grant of disability pension was rejected by the respondents vide letter dated 20.04.2007. Thereafter, the applicant submitted an appeal/representation dated 22.10.2018 for the same relief, which was rejected by the respondents vide letter dated 11.12.2018, impugned herein. Aggrieved by the same, the applicant has filed the instant OA.

4. Learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fully fit medically and physically and no note was made in his medical record to the effect that the applicant was

suffering from any disease at that time and any medical disability contracted by him during the course of his service should be treated as attributable to and aggravated by the stress and strains of service. Learned counsel further submitted that the respondents erred in considering the disability of the applicant as neither attributable to nor aggravated by service and despite the fact that as per Annexure III to Appendix II to the Entitlement Rules to Casualty Pensionary Awards to the Armed Forces Personnel, 1982, various heart related diseases and hypertension are listed in the diseases affected by stress and strain of service. The learned counsel explained about the stressful and difficult conditions of service performed by the applicant during his service tenure in different locations in different geographical conditions; which put mental and physical pressure on the applicant and had impacted adversely on the health of the applicant and thus, in October, 1998, the applicant suffered from Primary Hypertension and even after having been diagnosed with the said disability, the applicant continued to perform duties and due to which his medical condition got worsened

and in December, 2005, he suffered from Cataract in both eyes and later in June, 2002, the applicant was diagnosed with CAD.

5. Learned counsel for the applicant further submitted that there is catena of judgments of Hon'ble Supreme Court and this Tribunal in which similar relief was granted. Placing reliance on various judgments of the Hon'ble Supreme Court including **Dharamvir Singh Vs. Union of India & Ors. [2013 (7) SCC 316]**, **Union of India & Anr. Vs. Rajbir Singh [2015 (2) SCALE 371]**, **Union of India & Others Vs. Manjit Singh [AIR 2015 SC 2114]**, **UOI & Ors. Vs. Angad Singh Titaria [AIR 2015 SC 1898]**, learned counsel submitted that the respondents' action in denying the disability pension is unjustified and unlawful, when the disability recorded by the RMB occurred during the military service and was caused due to stress and strain of service. The learned counsel referred to Rules 5 and 14(b) of the Entitlement Rules, 1982 to submit that when no note was made about the disease at the time of joining the service, the deterioration of health in the course of service is to be presumed to be due to service conditions; Rule 9 to submit

that the onus of proof of condition of non-entitlement is not on the claimant but on the respondents; Rule 19 thereof to contend that if the worsening of a condition persists till the time of discharge, aggravation is to be accepted and also referred to various rules and regulations in support of the case of the applicant. The learned counsel, therefore, prayed that the disabilities in question be held as attributable to and aggravated by military service and that the disability pension be granted to the applicant.

6. Although the respondents have not filed their counter affidavit, however, submissions were made by the learned counsel for the respondents to the effect that the applicant is not entitled to the relief claimed since the RMB, being an expert body, found the disability as "Neither Attributable to Nor Aggravated by Military Service" on the ground that the disabilities (a) Cataract and (c) Primary Hypertension are constitutional in nature and disability (b) CAD has no connection service related stress and strain as per the charter of duties of the applicant and that the applicant's medical conditions were managed without any delay. The learned counsel further submitted that the applicant's

disabilities do not fulfil the necessary conditions for being eligible to get disability pension in terms of Regulation 37 of the Pension Regulations for the Air Force, 2008 (Part-I) of being assessed at 20% or more and being attributable to or aggravated by military service, the applicant is not entitled to disability pension and, therefore, the OA deserved to be dismissed.

7. We have heard the submissions made by the learned counsel for the parties and have gone through the records produced before us.

8. The law on the issue of attributability/aggravation of a disability is already settled by the Hon'ble Supreme Court in the case of **Dharamvir Singh Vs. Union of India [(2013) 7 SCC 316]**, which has been followed in subsequent decisions of the Hon'ble Supreme Court and in a catena of orders of this Tribunal, wherein the Hon'ble Apex Court had considered the question with regard to grant of disability pension and after taking note of the provisions of the Pension Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers and Para 423 of the Regulations for the Medical Services of the Armed Forces, it

was held by the Hon'ble Supreme Court that an Army personnel shall be presumed to have been in sound physical and mental condition upon entering service except as to physical disabilities noted or recorded at the time of entrance and in the event of his being discharged from service on medical grounds, any deterioration in his health, which may have taken place, shall be presumed due to service conditions. The Apex Court further held that the onus of proof shall be on the respondents to prove that the disease from which the incumbent is suffering is neither attributable to nor aggravated by military service. The guidelines laid down vide the verdict in *Dharamavir Singh (supra)* are as under:-

"28. A conjoint reading of various provisions, reproduced above, makes it clear that:

(i) Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable or aggravated by military service to be determined under "Entitlement Rules for Casualty Pensionary Awards, 1982" of Appendix-II (Regulation 173).

(ii) A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from

service on medical grounds any deterioration in his health is to be presumed due to service. [Rule 5 r/w Rule 14(b)].

(iii) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally. (Rule 9).

(iv) If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service. [Rule 14(c)].

(v) If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service. [14(b)].

(vi) If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons. [14(b)]; and

(vii) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the "Guide to Medical (Military Pension), 2002 - "Entitlement : General Principles", including paragraph 7, 8 and 9 as referred to above."

9. The 'Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel 2008', which take effect from 01.01.2008 provide vide Paras 6,7,10 and 11 thereof as under:

"6. Causal connection:

For award of disability pension/special family pension, a causal connection between disability or death and

military service has to be established by appropriate authorities.

Onus of proof:

Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/invalidment/ release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.

10. *Attributability:*

(a) Injuries:

In respect of accidents or injuries, the following rules shall be observed:

- i) Injuries sustained when the individual is 'on duty', as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).*
- ii) In cases of self-inflicted injuries while 'on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.*

(b) Disease:

(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-

- (a) that the disease has arisen during the period of military service, and*
- (b) that the disease has been caused by the conditions of employment in military service.*

(ii) Disease due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contracted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical courses as determined by the competent medical authority.

(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture and current scientific medical application.

(iv) when the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies

of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.....”

10. The Hon'ble Supreme Court in the case of **Union of India and Ors. Vs. Rajbir Singh (2015) 12 SCC 264** decided on 13.02.2015, after considering the case in *Dharamvir Singh (supra)* upheld the decision of this Tribunal granting disability pension and observed as under :

“15. Last but not the least is the fact that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability at times even before they completed their tenure in the armed forces. There may indeed be cases, where the disease was wholly unrelated to military service, but, in order that denial of disability pension can be justified on that ground, it must be affirmatively proved that the disease had nothing to do with such service.....”

8. In so far as the first disability i.e. Cataract is concerned, it would be useful to refer to Para 13 of Chapter VI of the Guide to Medical Officers (Military Pensions), 2002, which reads as under :

“13. Cataract

Cataract is primarily due to degenerative changes in the lens causing defective vision.

The causes of cataract are many :-

(a) Senile cataract

***(b) Metabolic disease - Diabetes mellitus
 Hypocalcaemia
 Galactosemia***

***(c) Trauma - Direct penetrating injury
 eye***

- Concussion**
Ionizing radiation
(Radiographer)
Electric shock and lightning
Prolonged exposure to UV
Light (for decades)
- (d) Complicated cataract - Secondary to uveitis**
Chroiditis
High myopia
Glaucoma
- (e) Drugs - Steroids, chlorpromazine,**
amiodarone
- (f) IOL Implant**
(g) Complications of atopic dermatitis and
psoriasis

It is unaffected by conditions of military service in both its onset and course unless the onset or course is brought about or hastened by an ocular injury or infection during service. The disability could also be aggravated by long service under adverse conditions, as for example in prolonged active operations or as a prisoner of war.

Senile cataract is not usually affected by service unless the disease shows abnormal rapid rate of progress associated with a debilitating disease or illness or long service under bad conditions when aggravation is appropriate.

Attributability is conceded when the cataract is secondary to trauma related to service, infection, post drug therapy and unforeseen complication to surgery.

In diabetic cataract, entitlement depends whether diabetes itself is brought about by service."

There is nothing on record to show that the applicant had suffered any eye injury or was exposed to UV light or had any infection during service or fulfilled any of the conditions of attributability/aggravation as detailed in Para 13 Chapter VI of GMO above and, therefore, the disability 'Cataract' which in the instant case is apparently due to degenerative changes in the lens is considered neither attributable to nor aggravated by the military service. Further, the disability

was assessed by the RMB @ 11-14%. Hence, the disability in question does not fulfill the mandatory eligibility conditions for disability pension as per Regulation 37 of the Pension Regulations for the Air Force, 1961 and thus is not admissible.

9. So far as the disability 'Primary Hypertension' is concerned, it may be seen that the applicant had first suffered with this disability in the year 1998. With regard to the attributability/aggravation of the said disability, the consistent stand taken by this Tribunal is based on the law laid down by the Hon'ble Supreme Court in the case of **Dharamvir Singh Vs. Union of India and others [(2013) 7 SCC 316]**, which has been followed in subsequent decisions of the Hon'ble Supreme Court and in the number of orders passed by the Tribunal, wherein the Apex Court had considered the question with regard to payment of disability pension and after taking note of the provisions of the Pension Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers, it was held by the Hon'ble Supreme Court that an Army personnel shall be presumed to have been in sound physical and mental condition upon

entering service except as to physical disabilities noted or recorded at the time of entrance and in the event of his being discharged from service on medical grounds, any deterioration in his health, which may have taken place, shall be presumed to be due to service conditions. The Apex Court further held that the onus of proof shall be on the respondents to prove that the disease from which the incumbent is suffering is neither attributable to nor aggravated by military service. The relevant para thereof is reproduced hereunder :

“28. A conjoint reading of various provisions, reproduced above, makes it clear that:

(i) Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable or aggravated by military service to be determined under “Entitlement Rules for Casualty Pensionary Awards, 1982” of Appendix-II (Regulation 173).

(ii) A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service. [Rule 5 r/w Rule 14(b)].

(iii) Onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit

of any reasonable doubt and is entitled for pensionary benefit more liberally. (Rule 9).

(iv) If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service. [Rule 14(c)].

(v) If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service. [14(b)].

(vi) If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons. [14(b)]; and

(vii) It is mandatory for the Medical Board to follow the guidelines laid down in Chapter-II of the "Guide to Medical (Military Pension), 2002 - "Entitlement : General Principles", including paragraph 7, 8 and 9 as referred to above."

10. Further as per amendment to Chapter VI of the 'Guide to Medical Officers (Military Pensions), 2002 at Para 43, it is provided as under :

"43. Hypertension - The first consideration should be to determine whether the hypertension is primary (essential) or secondary. If secondary, entitlement considerations should be directed to the underlying disease process (e.g. Nephritis), and it is unnecessary to notify hypertension separately. It is better to clearly indicate whether it is a case of essential hypertension, giving the evidence in support. As in the case of arteriosclerosis, entitlement of attributability is never appropriate, but where disablement for essential hypertension appears to have arisen or become worse in service, the question whether service compulsions have caused aggravation must be considered. Each case should be judged on its merits taking into

account particularly the physical condition on entry into service, the age, the amount and duration of any stress and whether any other service compulsion has operated. Hypertension generally arising in close time relationship to service in field area, active operational area, war like situation both in peace and field area, counter-insurgency areas and high altitude areas are acceptable as aggravated when exceptional stress and strain of service is in evidence. However, in certain cases the disease has been reported after long and frequent spells of service in field/HAA/active operational area. Such cases can be explained by variable response exhibited by different individuals to stressful situations. Aggravation can be considered taking into account the duration of service in active operational areas and sector profile."

11. The 'Entitlement Rules for Casualty Pensionary Awards, to the Armed Forces Personnel 2008, which provide vide Paras 6,7,10,11 thereof as under:

"6. Causal connection:

For award of disability pension/special family pension, a causal connection between disability or death and military service has to be established by appropriate authorities.

Onus of proof:

Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/invalidment/ release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.

10. Attributability:

(b) Injuries:

In respect of accidents or injuries, the following rules shall be observed:

- i) Injuries sustained when the individual is 'on duty', as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).*

ii) *In cases of self-inflicted injuries while 'on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.*

(b) Disease:

(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-

(a) that the disease has arisen during the period of military service, and

(b) that the disease has been caused by the conditions of employment in military service.

(ii) Disease due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contracted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical courses as determined by the competent medical authority.

(iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture and current scientific medical application.

(iv) when the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.

11. Aggravation:

A disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic conditions, environmental factors related to service conditions e.g. Fields, Operations, High Altitude etc."

12. It has already been observed by the Tribunal in large number of cases that the military services have their own pressure of rigorous military training and associated stress and strain of the service and that such a discrimination

between postings in peace area or field/HAA/CI Ops areas to say that there is no stress and strain of service is unfair for the purpose of issue of grant of disability pension. It may also be taken into consideration that most of the personnel of the armed forces, during their service, work in the stressful and hostile environment, difficult weather conditions and under strict disciplinary norms. Admittedly, the disability has occurred after about 26 years of service. Hence, holding the disability of primary hypertension by the RMB as neither attributable to nor aggravated by service is not convincing.

13. As regards the other disability i.e. CAD, as per the article by *WebMD* dated 1st March, 2023 available on the internet, the correlation of high blood pressure (hypertension) and CAD is described as under :

“..... general medical studies have shown that hypertension/high blood pressure can lead to CAD because it adds force to the artery walls. Over time, this can damage these blood vessels and lead to more plaque buildup. The narrowed artery limits or blocks the flow of blood to the heart muscle, which means it might not get enough oxygen.....”

14. Further as regards the heart disease, in Para 47 of Chapter VI of the GMO (MP) 2002, various factors including prolonged stress and strain and physical hardship caused by serving in field and high altitude areas have been provided

which cause the heart diseases to the army personnel. It would be relevant to reproduce Para 47 of the GMO, which is as under:-

"47. Ischaemic Heart Disease (IHD) IHD is a constitutional disease. It is almost always due to occlusive thrombus at the site of rupture of an atheromatous plaque in the coronary artery. Prolonged stress and strain hastens atherosclerosis by triggering of neurohormonal mechanism and autonomic storms. It is now well established that autonomic nervous system disturbances precipitated by emotions, stress and strain, through the agency of catecholamines affect the lipid response, blood pressure, increased platelet aggregation, heartrate and produce ECG abnormality and arrhythmias. Therefore where exceptional and prolonged stress and strain of service can reasonably be established, aggravation can be conceded. On the other hand acute and severe mental and physical stress of very short duration may precipitate acute cardiovascular catastrophe by suddenly creating marked reduction of blood supply relative to its demand and favours coronary spasm, resulting in ischaemia. Therefore intimate causal relationship must be accepted and attributability can be conceded. The service in field and high altitude areas apart from physical hardship imposes considerable mental stress of solitude and separation from family leaving the individual tense and anxious as quite often separation entails running of separate establishment, financial crisis, disturbance of child education and lack of security for family. Apart from this, compulsory group living restricts his freedom of activity. These factors jointly and severally can become a chronic source of mental stress and strain precipitating an attack of IHD.

Severe regimentation in the day to day service life, working to deadlines, prolonged hours of uncongenial duties are inherent in the working of services. In addition, severe mental trauma associated with operations of high pressure planning and similar other duties in three services, severe physical stress and strain of field service and active operational areas, stresses of multitude of duties and responsibility must be given consideration while establishing causal relation between acute cardiovascular catastrophe and service.

The magnitude of physical activity and emotional stress is no less in peace area. Tough work schedules and mounting pressure of work during peace time compounded by pressure of duties, maintenance of law and order, fighting counter insurgency and low intensity war in deceptively peaceful areas and aid to civilians in the event of natural calamities have increased the stress and strain of service manifold. Hence no clear cut distinction can be drawn between service in peace areas and field areas taking into account quantum of work, mental stress and responsibility involved. In such cases, aggravation due to service should be examined in favour of the individual.

It is concluded that a myocardial infarction may be attributable to or aggravated by service or unrelated to service factors as follows :-

*(a) **Attributability will be conceded where : A myocardial infarction arises during service in close time relationship to a service compulsion involving severe trauma or exceptional mental, emotional or physical strain, provided that the interval between the incident and the development of symptoms is approximately 24 to 48 hours. Attributability will be conceded in cases related to activities like high pressure planning for/in operation or extreme physical strain, but not in cases of stress and strain in office or extra/work duties which are matters of normal official life. Attributability can also be conceded when the underlying disease is either embolus or thrombus arising out of trauma in case of boxers and surgery, infectious diseases. e.g. SBE, vaccinia, exposure to HAA, extreme heat. However, IHD occurring in a setting of hypertension, diabetes and vasculitis, entitlement can be judged on its own merits.....***

15. In the present case, the applicant, despite having been diagnosed with Primary Hypertension in 1998, was posted to various locations having different and difficult weather, environmental and geographical conditions, which may have been the cause for the applicant to be diagnosed with CAD later on in 2002 and it can be considered as an offshoot of

the first disability. Moreover, hypertension and various heart related diseases are listed in the schedule of the Entitlement Rules, 1982 (Annexure III to Appendix II) as the diseases affected by stress and strain.

16. In these facts and circumstances and on the basis of the law laid down in the case of *Dharamvir Singh (supra)*, which have been followed in various subsequent decisions of the Hon'ble Apex Court as well as the Tribunal, we are of the considered view that the disabilities IDs 'Primary Hypertension' and 'CAD' suffered by the applicant have to be held attributable to/aggravated by the military service.

15. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is held entitled for the disability element of pension in respect of both the disabilities i.e. CAD @ 30% and Primary Hypertension @ 30% for life, the composite assessment of which is being calculated as per MoD letter No.16036/RMB/IMB/DGAFMS/ MA (pens) dated 14.12.2009 as under :

Disability (1) = 30% (the disability with maximum percentage)

Disability (2) $(100-30) = 70 \times 30/100 = 21\%$

Composite Assessment = $30 + 21 = 51\%$

17. In view of the afore-referred judicial pronouncements and the parameters referred to above, the applicant is entitled for disability element of pension in respect of disabilities i.e. CAD and Primary Hypertension, compositely assessed @ 51% for life and, therefore, the respondents are directed to grant disability element of pension to the applicant @ 51% which be rounded off to 75% 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, there being considerable delay in approaching the Tribunal by the applicant, in view of the law laid down in *Tarsem Singh's case (supra)*, arrears will be restricted to three years prior to the date of filing of this OA i.e. 22.01.2019.

18. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within a period of three 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.

19. There is no order as to costs.

Pronounced in open Court on this 3rd day of July,

2024.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[LT GEN P.M. HARIZ]
MEMBER (A)**

/ng/