21.

<u>MA 766/2024 in OA 1281/2021</u>

Sgt Mahesh Kumar (Retd)   .....   Applicant
VERSUS
Union of India and Ors.   .....   Respondents

For Applicant   :   Mr. Manoj Kr Gupta, Advocate
For Respondents :   Mr. Rajeev Kumar, Advocate

<u>CORAM</u>

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

<u>O R D E R</u>
27.03.2024

MA 766/2024 has been filed by the applicant arrayed as the respondents to OA 1281/2021 allowed vide order dated 20.03.2023 whereby the application seeks modification of observations in Para 5 of the said order which reads to the effect:-

> *"5.   In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is entitled for disability element of pension in respect of disability 'Hypertension'. 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 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,"*

placing reliance on the verdict of the Hon'ble Supreme Court in *Union of India & Ors. Vs. Tarsem Singh* in Civil Appeal No. 5151-5152 of 2018 dated 13.08.2008 seeking that the grant of the arrears for the disability element of pension be

confined to the period of three years prior to institution of OA 1281/2021.

2.   In view of the verdict of the Hon'ble Supreme Court in *Tarsem Singh* (supra), the prayer made by the applicant arrayed as respondents to the OA 1281/2021 is allowed and the arrears for the grant of the disability element of pension granted to the applicant of OA 1281/2021 shall commence to run from the period of three years prior to the institution of the OA 1281/2021 despite the opposition on behalf of the respondents..

The MA stands disposed of accordingly.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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