

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

51.

OA 2120/2023 with MA 3073/2023

MWO (HFO) Murali Dhar Yadava (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ramniwas Bansal, Advocate
For Respondents : Mr. R S Chhillar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
29.07.2024

MA 3073/2023

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in *Union of India and others Vs. Tarsem Singh* (2008) 8 SCC 648, the same is allowed condoning the delay in filing the O.A. MA stands disposed of.

OA 2120/2023

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). To quash and set aside applicant’s RMB proceedings to the extent the order denies grant of Disability element of Pension to the applicant.

(b). To set aside the impugned order and direct the respondents to grant the disability element of pension @ 30%, broad-banded to 50%, along with all consequential benefits, with arrears and interest @ 12% p.a. w.e.f. date of discharge, by treating disease as attributable to and aggravated by military service, in view of the Hon’ble Apex Court Judgment in Rajbir Singh (Supra) & Dharamvir Singh (Supra), or

(c). To pass such orders, direction/directions as this Hon’ble Tribunal may see, fit and proper in accordance with law.

2. The applicant was enrolled in Indian Air Force on 13.08.1976 and discharged on 31.01.2014. The applicant submits that for the purpose of Primary Hypertension (Old), the disability has been assessed @ 30% for life 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 Release Medical Board @ 30% for life.

4. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% for life rounded off to 50% for life with effect from the date of his discharge i.e. 31.01.2014.

5. The respondents are directed to grant disability element of pension to the applicant @ 30% for life for the disability of primary hypertension 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 i.e. 24.07.2023 in keeping with the law laid down in the case of Tarsem Singh (supra).

6. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant. The arrears shall be disbursed to the applicant within four months from the date of receipt of a copy of this order, failing which, these shall carry interest @ 6% per annum till the date of payment.

7. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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