

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

75.

OA 1217/2023 with MA 1926/2023 & 2183/2024

MWO Rajkumar Tyagi (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ramniwas Bansal, Advocate  
For Respondents : Mr. Arvind Kumar, Advocate

CORAM

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

ORDER  
31.05.2024

MA 1926/2023

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 2183/2024

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

OA 1217/2023

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:

*(a) To quash and set aside Impugned order dated 12 Mar 2021 and the Applicant's Release Medical Board proceedings to the extent the order/proceedings deny Disability element of Pension to the applicant.*

*(b) To 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 deem fit and proper in accordance with law.*

2. The applicant was enrolled in the Indian Air Force on 30.12.1983 and discharged on 31.07.2021. 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 Release Medical Board @ 30%.

4. 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., 31.07.2021 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.

5. 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.

6. No order as to costs.

7. Pending miscellaneous application, if any, stands disposed of.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

/KT/