

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

130.

OA 1287/2020 WITH MA 1537/2020

WO Yashpal Singh (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

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

CORAM :

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

ORDER  
25.9.2024

MA 1537/2020

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay in filing the present OA. In view of the judgment of the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs. Tarsem Singh [2009 (1) AISLJ 371] and the reasons mentioned in the application, the delay in filing the OA is condoned. The MA is disposed of accordingly.

OA 1287/2020

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) Quash and set aside the RMB proceedings to the extent this order deny the grant of disability pension to the applicant.*

(b) *To direct the respondents to grant the disability pension @ 40% broad banded to 50% with interest @10% p.a. w.e.f date of discharge by treating the disabilities as attributable to and aggravated by military service..*

2. The applicant was enrolled in the Indian Air Force on 16.05.1985 and discharged from service on 08.01.2019. The applicant while in active service suffered with the disabilities, namely, Primary Hypertension (Old) assessed @ 30% for life and Impaired Glucose Tolerance (Old) assessed at 20% on set of which was in September 2014.. The composite assessment of these disabilities was made at 40%, as is evident from the medical records. However, during the course of arguments learned counsel for the applicant submitted that the applicant will be satisfied if only his claim for Primary Hypertension assessed at 30% and rounded off to 50% is considered for purposes of grant of disability pension.

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 Vs. 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, assessed by the competent Medical Board @ 30%.

4. Accordingly, we allow this OA and direct the respondents:

(i) 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 and Ors. 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].

(ii) 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.

5. No order as to costs.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

/vks/