

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

OA 1398/2020

WITH

MA 1665/2020

Ex Sgt Manoj KL Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. D.K. Sharma, Advocate
For Respondents : Dr. V.S. Mahndiyan, Advocate

CORAM

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

ORDER

MA 1665/2020

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.

2. MA stands disposed of.

OA 1398/2020

3. 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 impugned letter dated 15 July 2020.

(b) Direct respondents to grant disability pension @50% after rounding off from 30% for life as recommended by RMB to the applicant with effect from 01 Jan 2017, i.e. the date of discharge from service with interest @12% p.a. till final payment is made.

(c) Direct the respondents to pay Rs. 50,000/- towards mental harassment and agony caused to applicant by respondents and also direct the respondents to pay Rs.50,000/- for litigation cost.

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

4. The applicant was enrolled into the Indian Air Force on 17.12.1996 and discharged from service on 31.12.2016. The applicant was examined by a duly constituted RMB on 01.03.2016 which held his disability of Primary Hypertension @ 30% for life while it was held that the disability was neither attributable to nor aggravated by military service. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @30% as is evident from the medical records. The composite disability for the ailment has been assessed @30% for life.

5. 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, which has been assessed by the competent Medical Board @ 30%.

6. The respondents are directed to grant disability element of pension to the applicant @ 30% for the disability of Primary Hypertension for life which be rounded off to 50% for life from the date of retirement, i.e., **31.12.2016**, 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, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649] the arrears shall be restricted to three years prior to the date of filing of OA. [Date of filing of OA: **01.09.2020**].

7. 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 and direct the respondents to calculate, sanction and issue necessary PPO to the applicant

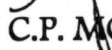
within four months from the date of receipt of copy of this order, failing which the applicant shall be entitled to interest @ 6% per annum till the date of payment.

8. No order as to costs.

9. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 18th day of October, 2024.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


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

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