

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

64.

OA 1613/2022 with MA 2103/2022

Sub Nrusingha Prasad Padhy (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Kritendra Tiwari, Advocate  
For Respondents : Mr. V Pattabhi Ram, Advocate

CORAM

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

ORDER  
07.05.2024

MA 2103/2022

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.

OA 1613/2022

2. 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) Quash and set aside the impugned letters dated 13 May 2022.

(b) Direct respondents to grant disability Pension @ 50% after rounding off from 40% for life as recommended by RMB to the applicant with effect from 01 Aug 2019 i.e. the date of discharge from service with interest @ 12% p.a. till final payment is made.

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

3. In this case, the applicant was enrolled in **Indian Army** on **6<sup>th</sup> July, 1989** and on completion of service was discharged on **31<sup>st</sup> July, 2019** in low medical category P2 (Permanent). Even though the applicant is found to be suffering from the following two ailments viz. (i) Primary Hypertension and (ii) Diabetes Mellitus Type-II, release medical board dated 16<sup>th</sup> April, 2019 held his disability (a) Primary Hypertension @ 30% for life and (b) Diabetes Mellitus Type- II @ 20% for life and the composite assessment of disability for the two ailments have been assessed at 40% for life. During the course of hearing today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be pressing for disability element of pension pertaining to one ailment i.e., Primary Hypertension and he gives up his claim for all other ailments.

4. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% for life as is evident from the medical records.

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 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 competent Medical Board @ 30%.

6. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% for life with effect from the date of his discharge. All other claims stand rejected.

7. The respondents are directed 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 Vs. Ram Avtar (Civil Appeal No. 418/2012)* decided on 10.12.2014.

8. 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.

9. No order as to costs.

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[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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