

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

OA 1691/2023 WITH MA 2472/2023

Nk Babu Lal Gurjar (Retd) ... Applicant
Versus
Union of India &Ors. ... Respondents

For Applicant : Mr. U.S. Maurya, Advocate
For Respondents : Mr. D.K. Sabat, Advocate

CORAM :

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

ORDER

MA 2472/2023

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.

2. MA stands disposed of.

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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) *Direct respondents to grant disability element w.e.f. 01.06.2016 after rounding of from 30% to 50% as per with 12% interest as applicant's disease originated first time after 12 years of service in Armed Forces and respondents denied for grant of disability pension only on the ground of disability Primary Hypertension occur in peace station & neither attributable nor aggravated. The question involved in this case on the matter of Primary Hypertension, neither attributable nor aggravated and peace station is no longer res integra, as the same has already been settled by this Hon'ble Tribunal in the case of Sgt Surendra Pal (Retd) vs. Union of India & Ors..*

4. The applicant was enrolled in the Indian Army on 14.05.1999 and discharged from Army Service on 31.05.2016 after rendering 17 years and 18 days of qualifying 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 at 30%.

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. Accordingly, we 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., **31.05.2016** 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, 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].

7. 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.

8. No order as to costs.

9. Pending miscellaneous application, if any, stands closed.

Pronounced in the open Court on 9th day of August, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps